

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING PETITIONS FOR REVIEW THURSDAY, JUNE 11, 1998

Chairman Ludwig called the meeting to order at 10:00 a.m. at the LaConner Country Inn, LaConner, Washington.

MEMBERS PRESENT: CURTIS LUDWIG, Chairman; LIZ McLAUGHLIN, Vice Chair; EDWARD HEAVEY; MARSHALL FORREST; and PATRICIA L. HERBOLD

OTHERS PRESENT: BEN BISHOP, Executive Director; SHERRI WINSLOW, Division Director, Field Operations; CALLY CASS-HEALY, Division Director, Licensing Operations; CARRIE TELLEFSON, Division Director, Policy, Planning and Support; DERRY FRIES, Division Director, Special Operations; JACKI FISCHER, Program Manager, Financial Investigations Unit; JONATHAN McCOY, Assistant Attorney General; KIM O'NEAL, Assistant Attorney General; and SUSAN GREEN, Executive Assistant

PETITIONS FOR REVIEW

Seizure/Forfeiture of Assets

ALLEN TITH – Case No. 97-1313

SARAY PHLOENG – Case No. 97-1312

YUEK PHE – Case No. 97-1311

Chairman Ludwig said the meeting was scheduled for an earlier starting time due to the large number of petitions for review on the agenda and there would not be time unless they met earlier. Three out of the five petitioners for review did not make it to the meeting. Perhaps due to a language barrier problem, they went to Commission headquarters in Olympia. Therefore, rather than attempting to conduct those meetings over the telephone and because they also have an interpreter involved, it was decided to continue them to the August Commission meeting at Gig Harbor. That location will be closer and more convenient for those petitioners rather than going to Spokane in July.

Chairman Ludwig said that prior to proceeding on the other two, he asked Commissioner and retired Judge, Ed Heavey, to preside over the remaining two review hearings.

Kim O'Neal said she was assigned to represent the staff in these petitions for review. She said they had communicated to the first plaintiffs in Olympia their option to either try to go forward this morning using a telephone hookup, which would have been logistically difficult, or set the hearings over to the Gig Harbor meeting in August. All three agreed that that would be better for them if it was set over. **Jon McCoy** verified for the record that the three hearings being held over were: Allen Tith, Saray Phloeng, and Yuek Phe.

Commissioner Heavey asked if Kelly Leigh Price or David Frey were present. **Kim O'Neal** said she had not seen either of them yet and she assumed they were operating on the schedule they were given and so they probably had not yet arrived. Commissioner Heavey, Chairman Ludwig and Jon McCoy had a short discussion

and decided to conduct an executive session while they were waiting for the two petitioners to arrive. **Commissioner Heavey** turned the meeting back over the Chairman Ludwig.

Chairman Ludwig adjourned the public hearing on those reviews. He said if either of the petitioners happened to show up before their scheduled appearance, he asked staff to inform them so they could resume immediately with the hearing.

((EXECUTIVE SESSION))

Denial of Card Room Employee's Application for a License

KELLY LEIGH PRICE

Chairman Ludwig called the meeting back to order when the petitioners arrived about a half-hour early. He announced again that he would turn the meeting over the commissioner and retired Judge Ed Heavey to preside and handed the microphone and gavel back to him.

Commissioner Heavey asked counsel to identify themselves and their clients. **Kim O'Neal** introduced herself as the Assistant Attorney General assigned to represent the Commission staff in this matter. **Ken Longley** introduced himself and said he was there on behalf of the applicant, Kelly Price.

Commissioner Heavey asked Ms. O'Neal to begin. **Kim O'Neal** said that it was Ms. Price's appeal and said it would be appropriate for her counsel to present his argument first. The initial order had been entered by an administrative law judge following a full hearing and testimony from witnesses and a statement by Ms. Price. The initial order was to affirm the decision by the Commission staff and the executive director to deny the application. Ms. Price is seeking review by the Commission of that decision.

Commissioner Heavey asked Mr. Longley to proceed. **Ken Longley** said that, as they had indicated to the Commission in their submission, Ms. Price did not take issue with any of the specific findings made by the Department or the administrative law judge insofar as they related to the specific facts of her application and her convictions. He said they had pointed out both in the appeal and the submission to the Commission, the criminal convictions that Ms. Price had on her record were disclosed in her application occurred in a very narrow timeframe and were of a very limited scope and nature. In addition, she fully and freely admitted that she had failed to disclose one or two other convictions, but also occurred at exactly the same time, exactly the same place and was out of the same series of events that occurred in her life.

Mr. Longley summarized the materials he submitted earlier by stating that Ms. Price had led an exemplary life until the sudden and unexpected death of her father and had made some very poor choices when dealing with that loss. She was convicted of drug-related incidents and traffic violations, has successfully completed her punishments and now has her driver's license back and has gone through drug rehab. When she applied for her card room license, she did not disclose all of her convictions on her application, which she acknowledges was a mistake. **Mr. Longley** said Ms. Price is asking the Commission to take a deeper, longer look at her and this application in light of the totality of her life rather than this one year or so period in her life when she made some very poor decisions. She had inherited some property from her father, manages that on a full-time basis and would like to have the license back. He said they take serious exception to the administrative law judge's findings that her lifestyle represented the degree of moral turpitude that is set forth in the statute in the WACs and respectfully requested that Commissioners grant her a dealer's license. He said the Commission members were welcome to ask Ms. Price any questions.

Commissioner Heavey asked if the commissioners had any questions of Mr. Longley or Ms. Price.

Chairman Ludwig asked if Ms. Price had any explanation for the offenses she failed to disclose. **Ken Longley** said her explanation was that it had been suggested to her that it wasn't important for her to disclose those.

Commissioner Forrest asked who it was who gave her the bad advice. **Mr. Longley** said it was someone who was assisting her in applying for the license.

Chairman Ludwig asked how she happened to be working at the Drift On Inn as a game starter prior to the time she applied and was denied a license. He said he knew from the record that her employer had written a nice letter of recommendation, but he also hired her even though she was unlicensed. **Mr. Longley** said she understood from her employer that she did not require a license to do that. When that was pointed out at a hearing both by the Attorney General and by the ALJ she immediately ceased those activities.

Commissioner Heavey asked if any commissioners had more questions. **Commissioner McLaughlin** said she thought that when someone applied for a license there was a certain timeframe in which a person could act in the capacity for which they were applying until such time as they received either notification of denial or acceptance for licensing. She asked if she had applied at that time. **Mr. Longley** said she had applied to be a card dealer and was acting in that capacity. When the application was denied, she ceased those activities. During the pending appeal to the administrative law judge, she was not dealing cards, but was acting as a game starter. She was working at the Drift On Inn as a game starter.

Commissioner Ludwig referred to the two gross misdemeanor drug violations and said they actually arise out of one specific set of facts. She had some marijuana; she had the implement to smoke or use it with her. **Mr. Longley** said that was correct and that there was an assault issue that was testified to by Ms. Price and that arose out of a traffic stop when she did not have a license and was also under the influence at the same time. He said he did not mean to lessen the severity of what these issues and what Ms. Price did, but he suggested they be looked at in light of the very small timeframe in Ms. Price's life, which was very troublesome.

Commissioner Ludwig asked about the theft conviction and if he could safely assume that was a negotiated or compromise disposition to a criminal charge. **Mr. Longley** said he was not the attorney who represented her and asked Commissioner Ludwig to address Ms. Price about that.

Commissioner Ludwig asked Ms. Price if the conviction for the theft charge were based on a plea that she entered. **Commissioner Heavey** said it was not appropriate for the petitioner to respond, because she had to be placed under oath if they were going to take her testimony. He suggested that her attorney should review the record if it contained any reference to that. **Mr. Longley** said he believed it was a plea bargain. **Chairman Ludwig** apologized for asking the question in that fashion. **Commissioner Heavey** asked if anyone else had a question.

Ms. O'Neal said she believed there was a question about it. That the facts as they were testified to at the hearing would be more in keeping with a burglary charge and there was testimony in the transcript that would indicate that changing that to a theft charge was the result of some agreement. She said the initial order of the administrative law judge effectively set forth the staff position. She said they don't dispute that Ms. Price is now on a much better road as her life choices demonstrate she is much better now than she was during the time period after her father died, but it was the position of the staff that the seriousness of this convictions, and that they're relatively recent.

((TECHNICAL DIFFICULTIES AT THIS POINT – for a full transcript of the Petitions for Review portion of the Commission meeting, contact Susan Green at (360) 438-7640))

Chairman Ludwig called for an executive session for the specific purpose of deliberating on the case of Kelly Leigh Price.

EXECUTIVE SESSION

Chairman Ludwig called the meeting back to order and announced that it was the decision of the Commission. The Commission upheld the ALJ's decision with one commissioner dissenting.

Denial of Card Room Employee's Application for a License

DAVID FREY

The Commission voted to uphold the ALJ's decision by a vote of three to two.

RECESS

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING THURSDAY, JUNE 11, 1998

Chairman Ludwig called the meeting to order at 1:30 p.m. at the Maple Hall Convention Center, LaConner. He said the morning's sessions were held at the LaConner Country Inn due to the full agenda and time constraints.

MEMBERS PRESENT:

CURTIS LUDWIG, Chairman; LIZ McLAUGHLIN, Vice Chair; EDWARD HEAVEY; MARSHALL FORREST and PATRICIA L. HERBOLD; and Ex Officio Members SENATOR MARGARITA PRENTICE, SENATOR RAY SCHOW, and REPRESENTATIVE RUTH FISHER

OTHERS PRESENT:

BEN BISHOP, Executive Director; SHERRI WINSLOW, Division Director, Field Operations; CALLY CASS-HEALY, Division Director, Licensing Operations; CARRIE TELLEFSON, Division Director, Policy, Planning and Support; DERRY FRIES, Division Director, Special Operations; JONATHAN McCOY, Assistant Attorney General; and SUSAN GREEN, Executive Assistant

Chairman Ludwig introduced those sitting at the head table and noted that this is Carrie Tellefson's last meeting as a Gambling Commission employee. She is going to work for another state agency.

LICENSE APPROVALS

NEW LICENSES, CHANGES, WITHDRAWALS AND TRIBAL CERTIFICATIONS

Chairman Ludwig noted that this section is long -- 50 pages -- due to the fact that there was no meeting last month.

Commissioner Herbold noticed that on page 20, the Drift On Inn Restaurant was listed for a change of class from "L" to "N." She wanted the appropriate staff person to tell her why, in light of the hearing they had earlier in the day with respect to a person who was acting as a game starter without a license at this facility, they were changing their class. She also noted they were applying for the card room enhancement program. **Ms. Winslow** answered that the staff did look at the upgrade and the participation in the house banking test, but they could not find any evidence that the organization was aware or paying the individual as a game starter. Therefore, they could not find that they were culpable and allowed them to go forward.

Commissioner Heavey said the testimony during the administrative hearing was that she was being paid. **Ms. Winslow** said she was just informed by her staff that they could not find anything in the records. **Commissioner Heavey** said that she admitted that she was being paid. **Ms. Winslow** said they didn't have that information at the time and they did try to gain access to that individual and they were unable to find her. **Commissioner Heavey** asked if Drift On Inn denied every having paid her. **Ms. Winslow** said that was what her staff informed her.

Commissioner Herbold thought there was a letter from the establishment acknowledging that she was a paid employee and they recommended her. **Chairman Ludwig** said he did not think that letter acknowledged that she was an employee. It was just a letter of recommendation. **Commissioner McLaughlin** said she thought the letter said that they would like her to be an employee.

Director Bishop said that there was a general lack of understanding of the requirement regarding game starters,

but without looking back, it was approximately within the last 18 months and within the last year, he thought many of the establishments claimed they weren't aware that people who just came in to start games if they weren't some of them were off shift or whatever, would be starting games and at that point in time said they weren't paying them specifically for that. The staff sent out a notice to all of them and this might have occurred during that time. He said they would follow up on that and let the commissioners know, but there was a general misunderstanding regarding people that were employees of the organization also participated in card games.

Commissioner Heavey said this individual, however, was hired as a card dealer. She told the Commission they would not issue a license to her, so then she went to a game starter, and that she was being paid. He said the law was very clear that employees in card rooms have to be paid. He said he could understand that if were licensed as a card dealer and then she also served as a shell, then they might not understand that she had to have two licenses. He assumed that that's what she would have to have, but he was not sure. But it was clear in this case that she was moved from one position to the other, she was an employee and she was not licensed. So whenever the motion is made, he said he would move that they exclude the approval of Drift On Inn.

Chairman Ludwig called for any further discussion about the entire list of applications, certifications, and changes on pages 1 through 52 of this item.

Commissioner McLaughlin asked if Commissioner Heavey would consider giving them a hearing on it. **Commissioner Heavey** said that if they want to appeal the decision, then they are entitled to a hearing. But he said at this point it was not inclined to vote to approve them. He said that two people had come before them, one of them had not had any problems with the law for 13 years and said that person could not be licensed. The person had problems with the law for a very short period of time, none of it related to gambling, but it related to other criminal activities, and then they apparently straightened themselves out, but the commissioners still said that that individual had not established sufficient evidence that she had straightened herself out in order to get a license. He said that if they did not do something about Drift On Inn they would have a double standard and it was his personal view that the should not recommend that the establish a double standard.

Commissioner Forrest said he was in general agreement with what Commissioner Heavey had just said. He acknowledged the amount of work the staff had gone to, but said he doesn't find it a very happy state of affairs that nobody had uncovered this. From an operator's viewpoint, if someone is moved from one position to another because of a lack of license, he thought it shouldn't take too much extra thought to realize that they would have to be licensed for the other one. Furthermore, he thought it was a worker's obligation to know who has to be licensed. He thought that, without an explanation or some sanction, he did not think they ought to be barred from being upgraded. **Ms. Cass-Healy** said that, normally, an upgrade wouldn't be denied. She asked Jon McCoy for a point of clarification, which might be whether there is a procedure for that. She wondered if instead of going for a revocation of license would they deny an upgrade based on these problems. **Mr. McCoy** said normally that's not subject to a hearing and he wondered about a precedent they might be setting in addressing that question at this stage. He thought that perhaps the best thing to do at this point was to withdraw it from this package and then consider what approach the Commission wants to take.

Chairman Ludwig asked Ms. Cass-Healy if she would explain to them again what actually is the effect of "L" to "N" upgrade. **Ms. Cass-Healy** said a Class "L" to a Class "N" would be that they are making more gross receipts so they have to pay a higher license fee. **Chairman Ludwig** asked what the monetary amounts were for "L" and "N". **Ms. Cass-Healy** said a Class "L" is up to \$1,500,000 in annual gross receipts and it is an \$8,259 license fee. A Class "N" is up to \$2 million and it's a \$9,356 license fee.

Director Bishop said this issue has been handled routinely by rule. The overall effect is that when a licensee approaches their gross receipts limit, they must submit an application, and the applicable fees go up. He said they typically had never done an investigation at this point in time. He said they had treated it under the concept of an ongoing license that they would have to take action to revoke or suspend the license. He said he was not saying that that is the legal method, but that that was the way it was always done. He said it was clearly a change in license by saying that to exceed this amount they must have approval from the Commission.

Commissioner Forrest asked if Commissioner Heavey would be satisfied if they would just postpone action on this item and have some kind of informal investigation and recommendation to them at the next meeting.

Commissioner Heavey said if that means to just withdraw their upgrade from this approval that would be in effect what his motion would be – not to approve them, not to revoke their license or whatever, it's just that they're not permitted to go from "L" to "N" without further action. He said it was his frank opinion that he would interpret what he had been told to mean that if they're at a million five they'd better pull those punchboards.

Chairman Ludwig asked if there was any penalty if a licensee exceeds their license class. **Director Bishop** said the penalty was set forth in WAC rules and it involved that they had to pay the difference and also that they can be fined for that amount. He said that, to his knowledge, they had never taken this as an action that would be able to stop or revoke a license at this point in the process.

Commissioner Heavey said he was not suggesting that the license be revoked; he was suggesting that they not be approved for an upgrade to an "N" at this point. He said he was not suggesting that this be long term, but at this point, no upgrade. **Chairman Ludwig** said that at the same time this worked to the licensee's advantage. **Commissioner Heavey** said no, they would have to shut the boards down. Either that or face the possibility of sanctions and he would imagine that sanctions could include revocation of license. **Chairman Ludwig** said that was not the answer he was hearing so far as sanction for exceeding the limits.

Ms. Cass-Healy said that they normally don't and it is likely that they have already exceeded the limit, which is why they applied for the upgrade. The effect of limiting their license may be the same as taking it away because they've already exceeded the gross receipts for their current class. **Chairman Ludwig** said he thought he precipitated the issue by inquiring from the petitioner this morning when she indicated she didn't know she needed a license to work as a game starter. He raised the issue about the operator must have known and then it occurred to him that pertained to an operator's card room license. He said they were dealing with a punchboard/pull tab upgrade. He said those were two separate and distinct licenses. He wondered if they should be looking at whatever sanctions were necessary so far as the card room licenses concerned rather than the pull tab punchboard license.

Commissioner Herbold noted that in the afternoon session under the card room contracts, this same operation is seeking to be in the house banked pilot test program. **Commissioner McLaughlin** thought that might be the more appropriate place for this discussion. **Chairman Ludwig** thanked her for that information. He said that for the time being, there was no motion on the floor other than the motion to limit or remove the upgrade change – if that were a motion.

Commissioner Heavey moved to approve all of the applications except for the Drift On Inn. **Commissioner Herbold** seconded the motion. **Commissioner Heavey** commented that to distinguish between the type of license that would be involved is like distinguishing between the crime that a person commits that makes them ineligible for a license. To say that, for instance, the young woman in the morning hearing engaged in the activities that had no relationship whatsoever to gambling, yet they denied her license. He said that is not the basis on which to distinguish. He said these people are required to know the law and if they don't want to follow it, then they must face the consequences. He said earlier that "if they can't do the time, don't do the crime." He said if these people cannot follow the law, then they face the consequences and one of consequences is that they're stuck with what they've got and they may lose what they've got.

Chairman Ludwig asked if there were a second to the motion. **Commissioner Herbold** seconded the motion.

Chairman Ludwig asked if someone from Drift On Inn were present and if they would like to comment before the vote.

Bob and Karen Mitchell, owners of the Drift On Inn, came forward. Ms. Mitchell said that when they were informed that Ms. Price was not going to get her license or that it was under appeal, they moved her to a waitress. She was a waitress, not a game starter. Ms. Mitchell said she did not know why she ever said she was a game starter. She was not paid to be a game starter. She said she played in the games on her own time. Mr. Mitchell said it was her own money. Ms. Mitchell said when she went in front of some Board and said that she was a game starter, the agents came into their establishment, looked at their payroll records, talked to them, and he was comfortable with what had happened. At that time he had said that he would feel better if they took her off the payroll totally, so they let her go as a waitress that very day. She said the agent said not to worry about it. And

now it is not fine.

Commissioner Forrest asked if they had other game starters. **Ms. Mitchell** said all of their other game starters were licensed. **Commissioner Forrest** asked her if they knew they had to be licensed. **Ms. Mitchell** said yes and as soon as they found out she wasn't licensed they took her off that and made her a waitress. They did not want to fire her totally. **Commissioner Forrest** asked Ms. Mitchell if she were telling him that in their successful and prosperous business were there people out there who were game starting and they didn't know she was doing it. **Ms. Mitchell** said if she wanted to play poker, they weren't going to stop her from playing; she was a customer on her own time, not on their clock. When she was on their clock, she was a waitress. **Commissioner Heavey** said that was not the testimony. **Ms. Mitchell** said she did not know why. **Mr. Mitchell** said that when the investigator came out they spent two hours with him. When they left the meeting everyone felt satisfied.

Chairman Ludwig asked if they let Ms. Price go as a waitress because she couldn't get a card room license. **Ms. Winslow** said she would assume that there would be a concern that there might be a potential conflict; she's playing cards and in essence it might look like she was being paid as a game starter. **Mr. Mitchell** said the investigator did not tell them to do it; they just asked him for advice. He did not tell them to get rid of her. **Commissioner Heavey** said it's hard for him to come to the conclusion that somebody under oath testified to being paid as game starter when it has an adverse affect on her ability to obtain a license. He said he had not changed his mind. There needed to be further investigation to make a determination.

Director Bishop said the rules for card room employees allow that an employee can go to work when they submit a license application to the Commission. It also has an exception in it regarding as long as they don't have a certain criminal history as far as exclusionary. He asked if the timing of the situation was such that she came to work for the Mitchell's as a card room employee they submitted an application. He asked if when they notified them that this person could not longer act as a card room employee they changed her employment to being a waitress. **Mr. and Ms. Mitchell** said yes. **Director Bishop** asked if, at that point, she had no involvement as a card room employee although she did play poker in their establishment when she was off duty and never received any pay. **Ms. Mitchell** said yes, and that there were several other licensed game starters. She said that if someone was not going to get licensed, the last thing they would want to do is jeopardize their license by keeping them on payroll. **Director Bishop** said those circumstances indicate to him that there was no violation. He said there would not be a violation that the owner could have known about if the person did not reveal the criminal history. **Mr. and Ms. Mitchell** said they were surprised about this action today. They thought that this was behind them. **Ms. Mitchell** said their agent had told them everything was okay.

Chairman Ludwig said that, based on what the Mitchell's had said, he said he personally did not have a quarrel with what they had done so far as Ms. Price was concerned up until the time they fired her. He said that did not have anything to do with their qualifications as a licensee. He said he was disappointed that they fired somebody who they honestly believed was a hardworking employee. **Mr. and Ms. Mitchell** said they would love to hire her, but until the matter was settled they did not want to be subject to suspicion that she may be working in a capacity other than as a waitress.

Chairman Ludwig said it was somewhat inconsistent with the commissioners to see the employee being penalized by not being able to work and the employer who hired her having no problems. Mr. Mitchell reminded the commissioners that she had sufficient income and did not have to work at their establishment for a living. **Chairman Ludwig** thanked him for reminding them that she was economically independent because it made it seem less tragic that she's not getting a license.

Chairman Ludwig restated the motion that it would approve the licenses, applications, changes and certifications listed on pages 1 through 52 with the exception of the change in pull tab punchboard classification for Drift On In Restaurant from "L" to "N." *Vote taken; motion carried with three aye votes and two no votes.*

Chairman Ludwig told Mr. and Mrs. Mitchell that they should not take the decision as indicating some finality. He said he hoped they would have a chance to discuss this further.

REVIEW OF FRIDAY'S AGENDA

Ms. Tellefson said on tomorrow's agenda there are no rules up for final action. She said they would be discussing 20 rules, seven of which have to do with the licensing of gambling service suppliers and pull service businesses. Seven are pull tab housekeeping changes and modifications to other pull tab rules and there is also a discussion of the petition by Washington Gaming Consultants regarding holding pull tabs. For discussion and possible filing tomorrow there are three bingo rules that will be presented to the commissioners and then under "Other Business" they had a request from Vito Chiechi to address the commissioners regarding license fee increases.

GAMBLING EQUIPMENT MANUFACTURER REVIEW

MIDWEST GAME SUPPLY COMPANY, Kearney, Missouri

Jacki Fischer said she is the program manager for the Financial Investigations Unit. This company submitted an application for a manufacturer's license upon their request on December 22, 1997. The company was initially issued a special sales permit in February of 1996, but have expanded their business in such a manner that the agency has required them to obtain an manufacturer's license and they agreed. On March 9, 1998, Agent Brandi LaCombe began a financial and criminal background review of the company. Procedures were performed to verify stock ownership, insure that all key individuals were subject to a recent criminal and personal background investigation, and to determine that the company was not engaged in sales activity not allowed in Washington State. A review of the company's stock ownership, federal tax returns and other financial records revealed no undisclosed significant interest holders in the company.

Ms. Fischer said that Midwest Games Supply Company was incorporated March 5, 1993 in Missouri. The corporation's shares are not publicly traded. As of March 17, 1998, there were one thousand shares outstanding to Mr. and Mrs. Charles Sohm, who serve as the company's president and vice president. The company has gambling licenses, permits or certifications in Indiana, Iowa, Louisiana, Mississippi, New Jersey and Agent LaCombe contacted those regulatory agencies to verify that the company was in good standing. **Ms. Fischer** said that, based on their review of the application, financial documents, and criminal background information, no items were noted that would preclude this company from qualifying for a manufacturer's license in Washington State. Based on this investigation staff recommends approval of Midwest Game Supply Company for license to manufacture gambling equipment in Washington State.

Chairman Ludwig noticed that Mrs. Sohm owns 51 percent, Mr. Sohm owns 49 percent and he wondered how they arrived at that. **Ms. Fischer** said that Mrs. Sohm feels that it is her business. **Chairman Ludwig** asked if the Sohm's or their representatives were present and they were not.

Commissioner McLaughlin moved to approve a license for Midwest Game Supply Company of Missouri, a Class "B" Manufacturer's License, to sell dice, chips, and table layouts. **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with five aye votes.*

QUALIFICATION REVIEWS

BIG BROTHERS/BIG SISTERS OF WHATCOM COUNTY, Bellingham

Ms. Fischer said this organization is located in Bellingham and they were first formed in 1976 to match children in need of positive adult influences with carefully screened and trained volunteers. There are 15 active voting members who also serve as their board members and govern the organization. The organization served 343 clients through their programs during their last fiscal year. The organization achieved 131 active matches, which was an increase of 38 matches from 1996. As part of their one-to one program, volunteer adults were matched with children in need of positive influences and spent at least three to four hours per week with them.

Ms. Fischer said that for the fiscal year ended December 31, 1997, Big Brothers and Big Sisters of Whatcom County did not meet its required combined net return percentage of six percent for its Class "G" bingo license.

The organization's net return was 4.9 percent. Because the organization was subsequently able to maintain compliance with net return requirements for six consecutive months, showing at least an eight percent net return, they were allowed to upgrade their license to a Class "H" during the first quarter of 1998. Big Brothers/Big Sisters of Whatcom County's year-to-date net return as of March 31, 1998 was 14.4 percent. The Class "H" requirement is eight percent.

Ms. Fischer said the organization accumulated excessive reserves due the sale of their former headquarter site in 1996. The organization plans to use a portion of the proceeds to maintain their program service levels over the next three years. Had the organization not sold the building, program services would have been cut significantly because of their losses in their bingo area. The organization is currently working with Commission staff to submit a plan regarding endowing service providing activities and setting up those funds for an endowment. **Ms. Fischer** said that the staff recommends Big Brothers/Big Sisters of Whatcom County be approved as a charitable organization and authorized to conduct gambling activities in the state of Washington.

Chairman Ludwig asked about the bad year they had in 1996 and wondered what went wrong. **Mr. Taylor**, president of the organization, said the 1996 woes were related to several factors. One factor was the increase in non commission regulated gambling in Whatcom County when two large casinos opened within about 10 miles of their facility. Both facilities added bingo halls as well. The next factor was when they made some program changes, which they intended to stem the losses, but which in fact exacerbated them. The factor was that the Canadian dollar declined.

Commissioner McLaughlin asked how they turned things around. **Mr. Taylor** said that when Mike Boyle became their bingo manager during that year and analyzed the organization's operation, particularly their bingo format, the games they were offering to the customers, they changed that format, brought in games that were more attractive to the customers. In addition, they froze salaries for three years. He said the successful turnaround was largely due to Mr. Boyle's commitment and creativity. He thanked the Commission for granting some relief back in September when they were on the road back and that helped them avoid shutting down. He said the staff was very supportive of them throughout their effort to get back where they needed to be. **Chairman Ludwig** noted that it was a significant comeback.

Commissioner Forrest moved that the Commission approve the Big Brothers/Big Sisters of Whatcom County as a charitable organization authorized to conduct gambling activities in the state of Washington. He said they were a valued resource in Whatcom County and he particularly is gratified about the improvement they've made in dealing with the problem. **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with five aye votes.*

Commissioner Herbold told Ms. Fischer that it would be very helpful to her if, in the future, Ms. Fischer would include in her report a reference to the fact that, as in this case, the Commission had granted a variance in the past. She said she cannot always remember which matters she has heard before and the reference would help her in her decision-making. **Ms. Fischer** said the staff would be happy to do that.

Chairman Ludwig noted that Big Brothers/Big Sisters paid taxes in the amount of \$34,000 on bingo and \$38,000 on pull tabs punchboards. He wondered if that was to the city and county. **Ms. Fischer** said it was the gambling tax and she did not know if it was in the City or not, but it would have gone to one or the other.

WHATCOM COUNTY CRISIS SERVICES, Bellingham

Ms. Fischer said this organization was formed in 1979 and has been licensed since 1983. There are 16 active voting members who also serve as board members for the organization. They have a full time executive director, 16 full time employees and 11 part time employees who provide program services throughout Whatcom County. They have 200 active program volunteers who donated over 30,000 hours during the last fiscal year. The organization serves through five main programs: Crisis Intervention, Domestic Violence Program, Abuse Control Training, the Sexual Assault Program, and the Community Relations Program. During 1997 approximately 23,000 people in several communities benefited from the services provided by this organization.

Ms. Fischer said that with the exception of the abuse control training program, all the programs are offered to the public at no charge. For the fiscal year ended December 31, 1997, Whatcom County Crisis Services met its required combined net return percentage of 14 percent for its Class "K" bingo license. By achieving a 17 percent net return, their year-to-date net return as of March 31, 1998 is 18.5 percent. The staff recommends they be approved as a charitable organization and authorized to conduct gambling activities in the state of Washington.

Commissioner McLaughlin asked if this was the group that former commissioner Katy Casey was at one time involved with. **Ms. Fischer** said yes, it was. **Ms. Marshall**, Executive Director for Whatcom County Crisis Service, was present and available for questions or comments. **Commissioner Forrest** congratulated and thanked her for providing such an important service in Whatcom County and moved to approve them as a charitable organization and authorized to conduct gambling activities in the state of Washington. **Commissioner McLaughlin** seconded the motion.

Commissioner Heavey noted that this organization again establishes the important role that the nonprofit organizations play in carrying out some of the social policies in the state, which are not properly financed by the public budget. Forty-six percent of their budget comes from bingo, which clearly illustrates the importance that this particular kind of gambling activity brings – even if gambling is not the best of activities in which to engage. It still clearly establishes the important role that this type of gambling activity produces for the people of the state of Washington. Hopefully, it will bring to the attention of the policy makers the importance of this and they will give it the same support as they do commercial gambling. **Chairman Ludwig** said it is interesting to note that under 1997 bingo activities they paid almost \$90,000 in local gambling taxes and over \$75,000 in their pull tab and punchboard operations. *Vote taken; motion carried with five aye votes.*

BIG BROTHERS OF KING COUNTY, Burien

Ms. Fischer said this group was first formed in 1957 and has been licensed since 1977. They have 500 active voting members. A volunteer 37-member board of directors including four officers governs the organization. The board conducted 11 meetings during the last fiscal year is representative of Puget Sound's corporate sector as well as the community. Big Brother's professional staff recruits and carefully screens male volunteers to match with boys to share one-to-one experiences and model a positive self image. Currently, the organization provides seven programs: traditional Big Brothers, Sports Buddies, Design Buddies, Brother for Brother, Partners Program, the High School Program, and Bigs in Blue.

Ms. Fischer said the organization served 666 matches in 1997. This amount includes 183 new matches made during that year. The group met its required combined net return percentage of 16 percent for its Class "M" bingo license by achieving a 23.9 percent return. The year-to-date net return as of March 31, 1998, was 26.6 percent. Staff recommends Big Brothers of King County be approved as a charitable organization and authorized to conduct gambling activities in the state of Washington.

Steve Strand, primary bingo manager, was present to answer any questions. No one had questions.

Chairman Ludwig noted that this organization paid \$188,000 in local gambling taxes for their bingo operation and \$145,000 for their pull tab punchboard operation in 1997. **Commissioner Heavey** noted that 32 percent of their \$2 million budget comes from their bingo operation, punchboard/pull tabs, again illustrates the importance of these organizations.

Commissioner Herbold moved to approve the Big Brothers of King County be approved as an athletic organization and authorized to conduct gambling activities in the state of Washington. **Commissioner Forrest** seconded the motion. *Vote taken; motion carried with five aye votes.*

CARD ROOM CONTRACT/HOUSE BANK PILOT TEST

DRIFT ON INN / RESTAURANT, Shoreline

Chairman Ludwig said Director Bishop has requested that this one be held until Friday's meeting.

P.J. POCKETS, Federal Way

Ms. Winslow said the card room contract for this organization was in handout packet #1, tab #1. The narrative explains that Pinnacle Gaming LLC is doing business as P.J. Pockets, which is a restaurant, bar and billiards room with a card room located in Federal Way. They currently have a Class "B" pull tab license and a Class "E-5" card room license. They are requesting approval to operate a total of 15 house banked card tables. The internal control submission was reviewed by the organization and it was determined that the controls are adequate and in compliance with the appendix. The WSGC staff completed the pre-operation inspection and all areas of the operation reviewed met the requirements of the Commission. Based on this review, the staff recommends that P. J. Pockets be approved to participate in the Commission's card room enhancement program test as a Level II, Phase I, operation.

Chairman Ludwig said that, since this operation is located in Federal Way, it was a good time to recognize the arrival of Senator Ray Schow, ex officio member. He asked if anyone from P.J. Pockets were present. **Dan Snitcher** representing the organization was present, but there were no questions.

Commissioner Heavey moved to approve the contract with P. J. Pockets to participate in the Commission's card room enhancement program test as a Level 2 Phase 1 operation. **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with five aye votes.*

LILAC LANES, Spokane

Ms. Winslow said this is The Eleventh Frame Restaurant, which is doing business as Lilac Lanes. It is a bowling establishment, restaurant, lounge, and card room in Spokane. The organization is currently licensed to conduct punchboard/pull tabs at the Class "J" and their card room at the Class "E-5". The licensee is requesting approval to operate on 12 of the 15 tables, 6 which would be black jack, 3 poker, 1 progressive black jack and 1 pie-gal poker and also a Let It Ride game with a maximum betting limit of \$25. Internal controls were reviewed and it was determined that the controls were adequate and in compliance with the appendices. The staff conducted a pre-operations inspection and based on the review, it was determined that the licensee's operations were in compliance with the requirements of appendices "B" and "C" and the internal controls were functional as stated in the internal control document. Approval to participate in the Commission's house banking card room test as a Level II, Phase I, participant is recommended. She said the card room manager was present to answer any questions.

Chairman Ludwig wondered how close they were to Silver Lanes and the Mars Hotel. The card room manager from the audience, said it was about 10 miles to Silver Lanes and the Mars Hotel was in between. He said they were located on the north end of town, Silver lanes was on the south side of town and Mars was in the middle. There is another one in the Valley, which is the eastern part of Spokane. **Chairman Ludwig** said that if approved, that would indicate that Spokane would have more house banked card rooms than any other community in the state, including Seattle.

Commissioner McLaughlin asked if there is anyone present from Spokane City government, but there was not. **Chairman Ludwig** said they would be in Spokane at the July meeting so they invited them back.

Commissioner Herbold moved approval of the card room enhancement program contract with respect to The Eleventh Frame Restaurant d.b.a. Lilac Lanes. **Commissioner Heavey** seconded the motion. *Vote taken; motion carried with five aye votes.*

HOUSE BANKED PILOT TEST – PHASE II REVIEWS

FREDDIE'S CLUB, Renton

Ms. Winslow said the next item up for discussion is the house banked pilot test Phase II review for Freddie's Club. The Club is requesting to advance to a Level II, Phase II, operation, which allows up to \$100 wagers. The WSGC staff performed a Phase II review during the period of March 23 to March 30 and deficiencies in the licensee's internal controls and gaming operations were noted. Freddie's Club has taken steps to correct the deficiencies noted during the original review. During the period of April 24 through June 3, the staff monitored the licensee's progress in correcting the deficiencies noted in the original Phase II review. The licensee has successfully implemented all of the changes to correct the deficiencies noted in the Phase II review and they recommend that Freddie's Club be approved for a Level II, Phase II operation.

Chairman Ludwig said it had been about 60 days since they had their last meeting in which they discussed this application and declined to approve the Phase II because of certain concerns. He pointed out that at that time it was a month early because of no May meeting. Now it is a month behind the six-month requirement and there may be questions or comments on the concerns from the April meeting and he invited the commissioners to express themselves at this time. **Commissioner Heavey** said he is pleased that they made all the corrections they were requested to do and he thought it established what they all knew to begin with was that Freddie's was a first class operation. **Commissioner McLaughlin** said she would like to comment that there were 12 licenses before them from Freddie's Club and it was her understanding that there weren't that many that were coming before the commissioners. **Chairman Ludwig** said that both Mr. Snyder and his counselor were present and could comment if they wished.

Bob Tull, attorney for Freddie's Club, said that at the April meeting staff had been fairly confident that the deficiencies had been corrected, but deficiencies had been corrected. There had been plenty of time now for deliberation, careful review, and confirmation that those corrections had taken place and any other requirements had been put into place. **Chairman Ludwig** said that he thought he spoke for all of them in saying they are well aware that Freddie's Club in Renton was the very first house banked card room contract approved and he did not expect everything to run absolutely perfect so he is pleased that things are satisfactory so far as staff and the inspections are concerned now. **Mr. Tull** said he and his client appreciate the ongoing cooperation not only from the staff, but from the Commission. This is a test program and pilot and there would occasionally be some bumps – in this instance some delay that they would have preferred to avoid, but they understand and Freddie had not given up his resolve to be an outstanding operator and he appreciated the staff's review and endorsement.

Senator Prentice said that whenever the Commission serves Freddie's or anybody else, there really ought to be bumps in the road because, if not, she would really be suspicious if they'd come back with 100 percent report card, it would mean that they weren't looking or they weren't looking the way they should, so bumps are part of the whole process. It has been corrected and that's what they expected. **Mr. Tull** said he thought that the test program was evolving as a result of these experiences and others and by the time the rule making process begins in earnest the relative importance of certain things would be much more clear than they were perhaps two months ago.

Commissioner Heavey moved the Commission approve the Phase II of Freddie's of Renton. **Commissioner Forrest and Herbold** seconded the motion. **Chairman Ludwig** asked if anyone had public comments regarding the motion. There were none. *Vote taken; motion carried with five aye votes.*

SILVER LANES, Spokane

Ms. Winslow said the organization was requesting approval to advance to a Level II, Phase II, operation. Staff performed a Phase II review on April 4, 1998. During the review, 14 specific violations of the licensee's internal controls were noted. During the follow-up review conducted on May 14, 1998, they determined that the licensee had corrected all the deficiencies noted in the original Phase II review. The licensee has successfully implemented the changes to correct those deficiencies noted in the original review; therefore, staff recommend that Silver Lanes be approved for a Level II, Phase II, operation.

Chairman Ludwig asked if the licensee were present and if there were any questions for Ms. Winslow or the licensee. There were none. **Rick Jones**, gaming operations manager for Silver Lanes, invited everyone to their establishment when they come next month to Spokane. **Chairman Ludwig** said the Commission is equally pleased that this operation survived the six month time frame and that problems have been corrected.

Commissioner McLaughlin moved to approve Phase II for Silver Lane Casino in Spokane. **Commissioner Herbold** seconded the motion. **Chairman Ludwig** said it had been moved and seconded that they approve the Phase II operation of Silver Lanes in Spokane. He noted for the record that there was no one present from the City to speak pro or con regarding this Phase II review. *Vote taken; motion carried with five aye votes.*

Commissioner McLaughlin asked if the cities are notified when card rooms move to Phase II levels. **Ms. Tellefson** said she didn't think they were notified specifically for that, but they do receive the agenda.

OTHER BUSINESS/GENERAL DISCUSSION

Chairman Ludwig asked if there were any comments or questions from the public on anything. No one came forward. He called for an executive session and announced that the Commission would be reconvened on Friday morning at 9:30. Public meeting recessed at 3:07 p.m.

EXECUTIVE SESSION

WASHINGTON STATE GAMBLING COMMISSION

MINUTES COMMISSION MEETING FRIDAY, JUNE 12, 1998

Chairman Ludwig called the meeting to order at 9:30 a.m. at the Maple Hall Convention Center, LaConner, Washington. He introduced the WSGC staff and Commission members at the head table.

MEMBERS PRESENT: CURTIS LUDWIG, Chairman; LIZ McLAUGHLIN, Vice Chair; EDWARD HEAVEY; MARSHALL FORREST and PATRICIA L. HERBOLD; and Ex Officio Members SENATOR MARGARITA PRENTICE, SENATOR RAY SCHOW, and REPRESENTATIVE RUTH FISHER

OTHERS PRESENT: BEN BISHOP, Executive Director; SHERRI WINSLOW, Division Director, Field Operations; CALLY CASS-HEALY, Division Director, Licensing Operations; CARRIE TELLEFSON, Division Director, Policy, Planning and Support; DERRY FRIES, Division Director, Special Operations; JONATHAN McCOY, Assistant Attorney General; and SUSAN GREEN, Executive Assistant

Chairman Ludwig noted that this was his last time as chairman and his last time to introduce and welcome everyone to the Washington State Gambling Commission meeting. He welcomed TVW, which was here yesterday and today. He said TVW provides a great public service because those who could not attend these meetings have an opportunity to see what goes on at not only this committee meeting, but every other important public service agency and state government meeting throughout the year.

He announced that this was Ms. Tellefson's last meeting because she would be going to a new position after the first of the month to a new challenging opportunity. He said the Commission will reconsider matters from yesterday's meeting that had been postponed.

APPROVAL OF THE MINUTES FROM THE APRIL 9 & 10, 1998, MEETING

Chairman Ludwig asked if there were any corrections to the minutes from the April 1998 meeting in Blaine. **Senator Prentice** noted that on page 7 of April 9, 1998, meeting in the report regarding the Imperials, the last paragraph where it says "The Imperials used to beat her group, the Columbians", it should say "the Imperials used to beat his group, the Columbians."

Commissioner McLaughlin said she gave Susan one small typographical error, which has already been corrected.

Chairman Ludwig asked if there were any other corrections or additions to the minutes. There being none, he said the minutes stand approved as written and corrected.

UNFINISHED BUSINESS

DRIFT ON INN

License Reclassification

Chairman Ludwig said that under Applications, Reclassifications, and Certifications, they approved all of them yesterday with the exception of the reclassification of Drift On Inn's bingo and pull tab classification from "L" to "N". The staff was concerned about one employee and they did not include that in their approval; that it why it is still before the Commission for their decision today. **Ms. Winslow** said she had gathered some additional information on the case and the issues that were presented yesterday. She said that they had based a lot of their information on memory. She obtained a copy of the case report to give them some facts on what actually happened with regard to the employee, Kelly Price, and the actions taken by the Drift On Inn.

Ms. Winslow said that the Financial Investigative Unit informed her staff that an unlicensed person was working as a game starter at the establishment. One of the staff persons who investigated the establishment found that the records indicated that this individual was still on the payroll and her staff were informed by the organization owners that Ms. Price was working as a waitress. The Gambling Commission staff advised them that there was an appearance problem and the owners had taken it on their own to terminate Ms. Price's employment at that point. The staff verified that she was terminated as of the weekend of March 31 and that there were no other similar violations to this over the past year. Based on that, it was determined that the agency was going to close the case with a verbal warning and the staff felt that everything had been taken care related to this incident.

Ms. Winslow said there had been a point made yesterday about game starters and the agency's policy regarding game starters. At the end of 1996, it was determined that the use of game starters by the card rooms was a frequent practice and should require a license for these employees. The staff had sent a notice out to all of the card room organizations to advise them that they need to license game starters. So that information did get out. It was a very confusing time for a lot of the licensees because they had not previously licensed game starters because they were not looked at as regular employees of the organization.

Commissioner Heavey asked if they had had licensed game starters before this. **Ms. Winslow** said that was correct. **Commissioner Heavey** said he meant subsequently – both previously and subsequently they had licensed game starters. **Ms. Winslow** said they had licensed game starters previous to the Price incident. **Commissioner Heavey** said that it sounded like it was their practice to license their game starters. **Ms. Winslow** said that was correct. **Commissioner Heavey** asked Ms. Winslow if the Mitchell's would be prepared to file a declaration that under penalty of perjury that this individual was hired as a waitress; that she was not a game starter during her normal work hours; and that she was not paid to be a game starter. **Ms. Winslow** said that she had talked to the Mitchell's about a declaration and Ms. Winslow said she would prefer that the Mitchell's address that to Commissioner Heavey. **Ms. Winslow** said that the Mitchell's said that they would sign something, but as far as the specifics of what they were willing to sign, Ms. Winslow wanted Commissioner Heavey to discuss that with the Mitchell's.

Chairman Ludwig wanted to clarify that right at the moment they were focusing on the reclassification, not the other item that was coming up. Ms. Winslow said she understood that and that she would save it for the end after the incident regarding Kelly Price and the Drift On Inn is resolved. **Commissioner Heavey** said that he recognized that there was a difference between the two, but he thought that as long as they were there, they might as well cover the ground that would be applicable to their card room. **Chairman Ludwig** asked the Mitchell's to come forward.

Mr. Mitchell said they wanted to make it very clear that they take the Commission very, very seriously. He said that if they would look at their file, from what they understand, they don't have anything in there. He said they were shocked yesterday that this actually happened. They thought that when the agency staff checked this out at the time the Mitchell's were checked out, they stopped looking at their internal controls because this arose, it was not going to continue until everyone was satisfied. When he talked to agency staff he said they were satisfied

and that the process could continue. He said he had been working with one specific agent for over three months and he thought that that agent could vouch for their character. They supplied the agent with everything had asked for and they have never tried to hide anything – their books are open – they take it very seriously. **Chairman Ludwig** asked the Mitchell's to tell the Commission what the Drift On Inn was about. **Mr. Mitchell** said it was everything – bar, restaurant, cocktail lounge. **Ms. Mitchell** said they have a 50's-style diner; they have dancing on Friday and Saturday night to 50's, 60's and 70's music. Downstairs there is a public card room and also a lounge with pool tables and video games.

Chairman Ludwig asked how long they had had a license. **Ms. Mitchell** said since April 1, 1994. **Mr. Mitchell** said in that particular location, but they had been in the gambling portion for 15 years. They have other pull tab establishments. **Commissioner Heavey** asked if the Mitchell's if they had statements under oath that she was paid as a game starter. **Mr. Mitchell** said that he thought her intent was that if she could convince or sway the Commission not to call her a liar and if she could convince them that the Mitchell's were willing to keep her on their payroll, that she would be more apt to get her license during her appeal process.

Commissioner Heavey explained that there was a statement under oath and he wanted to know if the Mitchell's would be willing to sign a declaration, under penalty of perjury, that she was hired as a waitress; she did do game starting at the time in question, not at the outset. That she did not start games during her normal work hours and that she was not paid to be a game starter and the Mitchell's would furnish a declaration under penalty of perjury to Ms. Winslow. **Mr. and Ms. Mitchell** said they would do that and wanted to know if they should consult an attorney to get that done. **Commissioner Heavey** informed her that it was like an affidavit only it doesn't have to be notarized. **Mr. and Ms. Mitchell** agreed to do that.

Chairman Ludwig called for any further questions or comments. There being none, he thanked and excused the Mitchell's. **Chairman Ludwig** asked if there was a motion regarding first the reclassification of the pull tab punchboard license for the Drift On Inn.

Commissioner Heavey moved to approve. **Chairman Ludwig** said that it was moved and seconded that the Commission approves the reclassification of the Drift On Inn punchboard/pull tab classification from Class "L" to Class "N". *Vote taken; motion carried with five aye votes.*

Chairman Ludwig said that since this issue came up yesterday and they had talked about some of the reclassification applications, he wondered if he was correct in his understanding that for future reference it was pretty automatic and did not necessarily require Commission approval. **Director Bishop** said that was his understanding and that was the way it had always been done. He said that at one point it had been taken out of the agenda as far as having the Commission approve them. Someone made an issue that it is a modification of a license and should be back in and so they put it back in. He said they actually have rules with set penalties regarding exceeding the class. So, if someone typically would go over their license class and require the upgrade and as purely a matter of paying a fee rather than any additional conditions or things along that line, that when it was discovered they must submit the new fees. If it were perceived in any manner as an attempt to hide it, they could be fined. In that case, they would have a chance to appeal that fine before the Commission. Typically it would never get before the Commission under normal circumstances. He said he thought they needed to recognize that they could have upwards to 1,500 of these in any one year of change in a license class. He said they need some way of doing it routinely.

Commissioner Herbold asked if there were some way that, through their computer system, when there's a case involved in a hearing like the Kelly Price matter, that it would trigger a message with respect to the facility involved. That way the people who were going in to audit or to consider the upgrade in the license would know that there's a problem. That way the right hand would know what the left hand was doing. They could investigate it a little more thoroughly to check out these things so they wouldn't end up with a situation like the one with Drift On Inn.

Director Bishop said the staff would certainly go back and examine that. He said they did have procedures now whereby any material transaction with a license they do search the case system completely to see if someone applied for a new license, they would have to come before the Commission. The staff would, at that point in time, check the case system. They have been informed in the past under the ongoing license theory covered by the

APA that they could not stop a license in the process that had already been issued. So in upgrade or renewal they would have to suspend or revoke the license rather than go for a denial so that was the reason that typically they wouldn't come before the Commission. He said he thought that they still check it. Perhaps Ms. Cass-Healy could help on that response. He said the agency does check the case system extensively on any new actions. They just have not done it in the past on change of license class.

CARD ROOM CONTRACT/HOUSE BANK PILOT TEST

DRIFT ON INN

Ms. Winslow said the Drift On Inn house banking review was one of the three house banking reviews that were to come forward yesterday. Drift On Inn is a commercial restaurant, lounge, and card room in Shoreline. They have a Class "N" pull tab license and a Class "A" commercial amusement game with an "E-5" card room. They are requesting approval to operate a total of 15 tables, 11 of which would be house banked with a \$25 maximum betting limit. Four of the tables would consist of poker. Their internal controls were reviewed and it was determined that they were adequate and in compliance with the appendices.

Ms. Winslow said that the staff had conducted the pre-operation inspection and, based on the review, it was determined that the operations were in compliance with all the requirements of appendices "B" and "C" and the controls were functional as stated in their internal control submission. Therefore, approval to participate in the house banking card room tests as a Level II, Phase I operation is recommended.

Chairman Ludwig said that appendix A says 15 tables and she had indicated that 11 would be house banked games. He said he saw that three would be a rake and guessed that those might be poker-type tables and then it says one on a player-supported jackpot scheme and that totaled 15. **Ms. Winslow** said that they were actually collecting fees by time on one of the tables, so that is where the other – they're raking four of the poker tables and they'll collect by time on one. **Chairman Ludwig** wondered if it was a player-supported jackpot, did it have to be a rake fee. **Ms. Winslow** said she did not think that was correct. A player-supported jackpot scheme can be played at just about any of the games; it's just a bonus-type activity to be handled in conjunction with a game. **Chairman Ludwig** said that kind of addressed his question. That accounted for 14 tables.

Ms. Winslow said that three of the poker tables were to be by rake – there might be a typo – one of them was to collect by time, and 11 are house banked. She said a PSJ would be a separate issue so if it is not correct in there, they would correct that. **Chairman Ludwig** said she had just corrected and explained it. He then called for any question for Ms. Winslow or the Mitchell's. There were none. He asked if anyone wanted to make a motion.

Commissioner Heavey moved to approve subject to the filing of the declaration under penalty of perjury that had been previously discussed. **Commissioner Herbold** seconded the motion.

Director Bishop asked if he should assume that he would need to have this in their hands before they were allowed to proceed. **Commissioner Heavey** said it could be hand written. **Chairman Ludwig** said that was something they could accomplish in a matter of minutes. **Chairman Ludwig** said that it had been approved and seconded that the Commission approve the contract with Drift On Inn of Shoreline for house banked pilot program. He called for discussion. *Vote taken; motion carried with five aye votes.*

RULES

GAMBLING SERVICE SUPPLIER RULES

Amendatory Section WAC 230-02-205 – Gambling services supplier defined

New Section WAC 230-02-208 – Punchboard and pull tab service business defined

Amendatory Section WAC 230-04-119 – Licensing of gambling service suppliers

Amendatory Section WAC 230-04-124 – Licensing of manufacturer, distributor, and gambling service supplier representatives.

New Section WAC 230-04-133 – Punchboard and pull tab service business – Registration required – Procedures – Restrictions.

Amendatory Section WAC 230-08-025 – Accounting records to be maintained by distributors ((:)) and manufacturers ((~~and gambling services suppliers~~))

Ms. Tellefson said Items 2 (a)-(g) are seven rules that are just up for further discussion today. Division Director Cally Cass-Healy has been working on this package for quite a few months and has had quite a bit of input from the industry. A brief summary of the package, Item 2(a) defines gambling service suppliers and exempts those that provide non management record keeping services whose gross billings do not exceed \$50,000 per year. Those businesses are separately defined in 2(b) as a punchboard/pull tab service business. Item 2(c) requires the service suppliers to be licensed and pay a fee and it also prohibits the gambling service supplier from holding a substantial interest in a manufacturer or distributor. Item 2(d) adds that a gambling service supplier representative may hold an interest in a manufacturer or a distributor but when they do so and provide services to operators, they need to inform the Commission, the manufacturer or distributor and the operator of the relationship and then the manufacturer or the distributor would not be able to sell to that particular operator. Item 2(e) says that a punchboard/pull tab service business defined in Item 2(b) must register and receive a permit and then items 2(f) and (g) have to do with record keeping provisions for gambling service suppliers.

Commissioner Forrest said that \$50,000 runs through a lot of these and wondered what the rationale of why it was fifty versus something else. **Ms. Cass-Healy** said it was an arbitrary figure. She said it was set initially at \$10,000 and they negotiated with the industry and felt that \$50,000 was a more reasonable limit and it has to do with the extent of regulation over them. **Commissioner Forrest** said he had no picture in his mind of how big of business making \$50,000 would be. He asked if this were a mom and pop, or is this three or four employees and a couple of computers. **Ms. Cass-Healy** said all of those that he mentioned. There were some that are one person with three or four accounts who make just enough to live on and then there are some very sophisticated businesses that also perform those services.

Commissioner Forrest wondered if the \$50,000 level were a sophisticated business or still a mom and pop operation. **Ms. Cass-Healy** said that they don't enough at this point since they don't have a very good feel for what's actually out there until they're registered or licensed or whatever, but she guessed there were three or four very sophisticated ones out there above that level. \$50,000 is gross billings. **Director Bishop** said he would think \$50,000 would not support more than two people or if it did it would be at a very low level because there had to be some expenses involved. **Commissioner Forrest** asked if this had to be either part time in the sense that that's all they do part time or a part of somebody else's bookkeeping business and this is just another specialized part of it. He said he was having a hard time visualizing how this industry operated. **Director Bishop** said if someone had a normal bookkeeping service, they are not required to be registered under this. He said it was only those people who are doing this alone, a little niche market that they found a service that they probably could not get rich doing. He said another thing they went along with it – is it something that can be done at home very easily or while taking care of children or other things. He said he did not expect that they will see too many of these, although there were some that have very professionally-run businesses doing their bookkeeping.

Commissioner Herbold said she was trying to understand the big picture of all of these different people. Gambling Service Supplier is defined as providing these gambling-related management-type services as long as they gross over \$50,000. She asked who they were, if they had a name if they gross less than \$50,000 and were those groups that needed to be registered but don't have to follow the other requirements. **Ms. Tellefson** said that was exactly so. **Commissioner Herbold** asked if a gambling service supplier could relate to punchboard/pull tabs and bingo – any form of gambling. **Director Bishop** said that was correct. **Commissioner Herbold** asked if in Item 2-B where it talks about the punchboard and pull tab service business, they make more than \$50,000 were they also a gambling services supplier. **Ms. Tellefson** said yes, they would have to be either one or the other.

Commissioner Herbold pointed out that it was a new section and she was confused because it started out with a definition of punchboard and pull tab service business and then it kind of drifted into the record keeping requirements that are the responsibility of the operator and then it drifted again into exemptions from those requirements. She wondered why the exemptions from those requirements would be under this rather than under the requirement section. She said she was very confused about who was responsible for what. She thought it went a little bit far in terms of definition of punchboard and pull tab service business. **Ms. Tellefson** said that they might need to change that. She said that in the past inconsistent in putting actually regulatory requirements and definitions rules and perhaps that is something they could look at separating it out into a separate requirement

section for those punchboard/pull tab service businesses that might make more sense.

Commissioner Herbold said she was having difficulty figuring out what related to where they started and it kind of threw her off. Then under Item 2 c) in the underlying section 7, she wondered if there were a definition somewhere as to what a substantial interest holder is. **Ms. Cass-Healy** said yes there was in a different section. **Commissioner Herbold** referred to the seventh line from the bottom, it says "In such business . . ." and she said she was unsure what business was being referred to there and then it goes on three lines down and talks about in either business and again she was confused as to which business – the one about the spouse – and she was confused about what that means and then in the very last line it talks about both licensees and she got lost in trying to understand who was who in that scenario. **Ms. Tellefson** said that somebody could look it and try to clarify it.

Commissioner Herbold said that in Item 2 (d) paragraph three it says "An applicant for a license as a distributor", she wondered if it meant "as a representative of a distributor" or "a gambling services supplier." She said it has "representative for gambling services supplier," but when a person reads that initially, the reader thinks its talking about a license as a distributor. **Ms. Tellefson** asked if she thought it should be "distributor representative." **Commissioner Herbold** said it should be "a representative of a distributor or a gambling services supplier." **Ms. Tellefson** said that they would make sure that change got made.

Commissioner Herbold went on to make sure that she understood what she was reading correctly, and pointed out in paragraph four, which is on page 2 of that rule. She wondered if the bottom line meaning of that reference was that if a person were a representative of a manufacturer or distributor and they also provided consulting services to a charitable bingo, for example, that the manufacturer or distributor could not sell bingo cards to that charity. **Ms. Tellefson** asked for a few minutes to study if over. **Director Bishop** confirmed that that was the underlying meaning as Commissioner Herbold stated.

Commissioner Herbold asked about Item 2 (e) where it sets forth in paragraph 2 (a) the initial application fee for a business including up to two associates is \$200 and then in (b) the initial application – associates is \$125. She wondered what the initial application fee if there are more than two associates and is (b) intended to say that it's an additional \$125 for each additional associate. **Ms. Cass-Healy** responded that this is for each additional person beyond the two. **Commissioner Herbold** asked if in b) it should be "initial application each additional associate." **Ms. Cass-Healy and Director Bishop** said that was right.

Commissioner Herbold pointed out a typographical error in 5 (a) and said it should be changed so it would read "the nature of the business being provided change[s]." An "s" should be added to the word "change." **Ms. Cass-Healy and Ms. Tellefson and Chairman Ludwig** thanked Commissioner Herbold for her observations.

Chairman Ludwig asked first the commissioners and then the public if there were any other questions or concerns regarding the service supplier rule package. He said this would be on the agenda again and was not the last opportunity for comment.

NON-PROFIT LICENSING REQUIREMENTS

Amendatory Section WAC 230-04-064 – Certification Procedure – All licenses – Formal commission approval.

Amendatory Section WAC 230-08-122 – Annual progress and financial report – All nonprofit and charitable organizations.

Amendatory Section WAC 230-08-255 – Bona fide charitable or nonprofit organizations – Significant Progress.

Repealed Section WAC 230-12-060 – Charitable or nonprofit – Bingo – special review.

Amendatory Section WAC 230-30-052 – Punchboards and pull tabs operated by charitable and nonprofit organizations – net income required

Ms. Tellefson said these are five rules up for discussion today and address the licensing of non profit organizations. Item 3 (a) was clarified at the last Commission meeting. At the director's request, a representative from a Group IV or V organization (those are organizations who make over \$3 million from gambling) must be present before the Commission during its qualification review. Item 3 (b) also requires that same group to submit financial statements that are prepared by a licensed CPA. Item 3 (c) reorganizes the rule regarding when an organization is making significant progress toward its stated purposes and then it also sets forth circumstances under which the organization may be exempted from meeting the percentage requirements.

Commissioner Forrest said that, with regard to being prepared by a CPA, he noticed a statement at the end of the CPA statement that says, "We have not independently verified check register et cetera . . ." He said he has nothing against CPAs, but he wondered if they were really serving any great function by doing that. He wondered if there were enough difference in responsibility as opposed to a bookkeeping service that would be able to handle whatever the business might be. **Ms. Cass-Healy** said their main concern was the format in that the figures were classified correctly because agency staff spends quite a bit of time on certain organizations just trying to ensure that the numbers themselves are correctly allocated that they are in the proper format. That was the main purpose. **Commissioner Forrest** suggested that they just prepare the format and let them all report. He said he understood that 100 percent. He said it would be very helpful if everybody came in and they could always be comparing apples with apples if they wanted to compare various statements and so forth or trends. He said they had a format that's easy to handle. He said that's what the IRS does to us – we have to follow their format. **Ms. Cass-Healy** said they do have requirements and they have even put out examples and they do walk them through it quite a bit, but she thought that a lot of time it had to do with people who are internal to the organization who don't necessarily understand the accounting principles even though they put a lot of effort into it. They don't always understand what the Commission wants. She said Commissioner Forrest's point was well taken.

Chairman Ludwig said he shared Commissioner Forrest's concern and it had occurred to him before he asked the question, the Commission is dealing with non profit operations and the more money they can generate the better service they'll provide. He wondered how much routinely would it cost a non profit organization to have a CPA prepare their financial statement. Would it be a big or small item? **Ms. Cass-Healy** said that this had been discussed in workshops. They had started out by requesting audited statements and that would have added substantial cost and that was how they came down to this particular language. It just depends on the number of hours it takes the CPA to do it as to the cost and where the CPA is from.

Director Bishop said it also depended upon the level of service they were providing. For example, the firm already does a lot of the work for the organization and putting together their records, some of them even prepare gambling records to provide what is called a compilation which is taking all the data and putting it in this form probably would be very little more. He said if they went to a review level service by the standards that must be followed, the price would go up considerably and it would go up again for an audit which could cost upwards to \$15,000 to \$20,000 in some situations depending upon the level. A lot of these organizations are required to have audits already by other requirements. If they are receiving funds from any government entity; if they're receiving funds as a part of United Way or those types of organizations, they must do these. There probably is no hard answer to the cost and how much it would be additional for the WSGC staff to do it. They spend a lot of time trying to explain what generally accepted accounting principles are which they place a lot of reliance on if we know that they're prepared in this manner, it does reduce staff work considerably. He said part of it was that they pay them or pay us.

Chairman Ludwig asked if he could assume that, for the purpose of the Commission's requirement it is not a large burden. He said that he thought that when they checked the largest majority of the people that were in these two groups already had some level of service with a CPA. They started off with looking at audited statements and finally did back down to saying that what they were interested in was proper form and that the basic standards had been followed – that of the generally-accepted accounting principles as far as the allocation. **Ms. Cass-Healy** said that was correct. This would impact very few, perhaps four or five licensees in total at this point.

Commissioner Heavey wondered if licensed public accountants had been considered. He said there were two classifications – certified public accountant and licensed public accountants. **Director Bishop** said they had to be a licensed certified public accountant in order to provide a comment on financial statements.

Commissioner Heavey said there were licensed public accountants who were not qualified to do audits, but they were licensed by the state – that's what he meant by a licensed public accountant as opposed to a certified public accountant. **Director Bishop** said that was new to him. **Ms. Cass-Healy** said the word "certified" was intentional, and she guessed it had to do with experience level of working with the financial statements. She said they would get more information on that. **Commissioner Forrest** said his concern was that if they get what they feel they need to do their job with minimum expense to people who are doing a job for the public.

Commissioner Herbold said that, in Item 3 a), a new sentence was added that says “only at the request of the director at least one representative shall be present.” She wondered if the word “only” was necessary. She said it almost sounded like that was the only circumstance under which they could be there. **Ms. Tellefson** said that is a good point, and that word would be taken out.

Commissioner Herbold said that in Item 3 c), she had a number of questions. She said this section did not refer to groups I and II and wondered if there were a percentage requirement for them elsewhere in the rules so that this sets for the significant process criteria for groups III, IV, and V and if I and II were covered somewhere else.

Director Bishop said yes, that was correct. The basic rules in the 04 section set forth the minimum requirements and then there’s a caveat that says “and those that are in III, IV, and V must also comply with this.”

Commissioner Herbold pointed out paragraph three where they set forth the 60 percent rule of gambling income and then they refer to “functional expenses.” She asked if that were a defined term. **Ms. Cass-Healy** said yes, it was. **Director Bishop** said he misspoke. It’s this particular paragraph, the lead paragraph talks about the general, then the last sentence gets into specifics. **Commissioner Herbold** said the 60 percent rule applies to III, IV, and V. She wondered if there were no percentage requirement with respect to I and II. **Director Bishop** said no.

Commissioner Herbold asked if in paragraph three these groups III, IV, and V are required to have at least 60 percent of their net gambling income utilized as functional expenses, what is the reason that the reader needs to go into this computation scheme in small paragraph “b” where you are computing ratios. She said it seemed to her that if the requirement were 60 percent, why do all the ratios have to be set forth. She wondered why they didn’t just take 60 percent of net gambling income. She wanted to know if there were some reason that had to be in there.

Director Bishop said yes. What happens is that when they were going through this several years back, licensees made a point and a correct point, he thought, is that the Gambling Commission does not have an authority to regulate how they spend funds that do not come from gambling. In fact, they had a decision out of legislative rules review committee that basically said that a few years back. So, to get to where they were at, they said that okay how can we get there and they said, well, we’ll separate all of our gambling funds. They will be over here by themselves and they will never be mixed with any of the organizational funds. He said that after they analyzed that, while it sounds like an excellent way of correcting that problem, in reality the way these organizations work, it’s almost impossible to separate all of the funds out to various places. They negotiated the conclusion that the best solution would be to say these funds become fungible – they all go into one pot. And make the assumption that 60 percent of all this money spent is gambling. And therefore, the agency had to go through this extensive allocation and specifically set forward how to do these steps. It’s very complicated.

Commissioner Herbold agreed and when she read it she wondered what the point was, because they were starting with 60 percent of that gambling income. It seemed to her that the staff already, by definition of net gambling income, is talking about gambling income. She thought that that was fairly straightforward. But if all of this is necessary and stays in, then her question was on the small paragraph I (v) on the top of page two, where it says, “The total expenses of providing program services must be equal to or greater than the results of the computation in 3 (b)”, and 3 (b) is the amount of net gambling income that was actually used. She said she thought it needed to be equal to or greater than the computation in 1 (b). **Director Bishop** said that was possible. He would have to look at that.

Commission Herbold said she didn’t think it made sense the way it was written now. Then on page two, in paragraph five, this is the one she referenced at the last meeting that was confusing to her. She said there were a couple of grammatical things that she would just give to Ms. Cass-Healy, but in 5 a) ii) in the second to the last line, it refers to providing services, she wondered if that were program services, supporting services, or both.

Director Bishop said he thought it was both. **Commissioners Herbold** said that in that same question in paragraph b down near the end of the page, talking about resulting the lack of funds spent on services. Again, she did not know whether it was program, supporting, or both. And the rest of the things are grammatical and phraseology and she suggested that she just give those to Ms. Cass-Healy rather than boring everyone with details. **Director Bishop**, Ms. Cass-Healy and Chairman Ludwig thanked Commissioner Herbold for her contributions.

Chairman Ludwig called for any further comments and then opened the meeting to public comment.

Commissioner Forrest asked about 3 e) there was a reference to the licensees meeting the intent of RCW 9.46.010. He said he did not know off hand that's in the text of this. He wanted to know what, in essence, RCW 9.46.010 says. **Ms. Tellefson** said that was the enabling statute – the language regarding gambling, the use of gambling in Washington for charitable nonprofit organizations. She hadn't actually thought about the use in this particular paragraph.

Director Bishop read, "the raising of funds for promotion of bona fide charitable nonprofit organizations in public interests as in the participation in such activity in social past times that are hereby in this chapter authorized."

Commissioner Forrest said he hadn't had a chance to read the whole thing, but he would in due course, but this seemed to him to be trying to keep the criminal element out of gambling. **Director Bishop** said it says "further declares". He said they had one declaration and then it further declares that the raising of funds for promotion seems to be in the public policy also while it certainly is the public policy to keep the criminal element out, but it further declares that the promotion of non profit organization is also in the public's interest. He said he thought that was the reference to that particular rule as to the intent.

Ms. Tellefson said the staff had always seen their job with respect to regulating charitable and non profit organizations as one of the reasons they were involved was to make sure that the money actually gets to the charitable or non profit program. She said they tend to generally reference the enabling statute as to why the agency is involved in the regulation of charities and how it might be different from commercial regulation. And this particular rule is one of the rules that had to do with ensuring that the net income requirements are met and that the programs are actually receiving the money from gambling. **Director Bishop** suggested that maybe that sentence would better be read to say to ensure that licensees use the funds from gambling activities to promote their charitable non profit organizations. **Commissioner Forrest** said he was not suggesting that these be particularly redrafted; his intent was more to get information. **Chairman Ludwig** said he thought the language was all right the way it is when one reads the whole sentence. It meets that purpose. He returned to asking for public comment. There was none.

PUNCHBOARD/PULL TAB RULES AND HOUSEKEEPING CHANGES

Ms. Tellefson said Item 4 (a) through (g) are seven rules that are also up for further discussion. Some of them are housekeeping changes and some of them are substantive. Item 4 (a) is a housekeeping change; 4 (b) amends the rules regarding returning a defective punchboard and pull tab to the manufacturer. It requires that we receive Commission approval prior to doing so and that's to ensure that the staff is aware of all defective games that are out there. Item 4 (c) is a housekeeping changes, Item 4 (d) clarifies the prize levels and pull tab games with carry over jackpots and states that, if the jackpot is awarded all advance level prizes plus the jackpot can't exceed \$2,000. And if the jackpot is not awarded, all the prizes cannot exceed \$500, so it just clarifies those situations. Item 4 (e) is a housekeeping change, Item 4 (f) clarifies that punchboard/pull tab series with carryover jackpots are exempt from the \$500 prize pay-out limitation. Item 4 (g) is a housekeeping change. It clarifies that only the prizes over \$20 must be marked off the flare and that's consistent with statutory language. It also requires in bonus games that flares be constructed so that the prizes can't be determined prior to opening the windows. So that was just a clarification for those pull tab games that have bonus prizes. This is up for further discussion.

Chairman Ludwig called for further questions or comments. There were none. He said this is on the agenda and will be on the agenda for further discussion at the next meeting. He opened the meeting to public comment. No one came forward.

Commissioner Forrest had a question regarding 4 (e), where it says cash may not be awarded in lieu of merchandize prizes that had been won. He said if one looks back at the original text, it says "All prizes from the operation of punchboards and pull tabs should be awarded in cash or in merchandise." His question was, so what if he wins the teddy bear and now he is told that he can't change his mind and say he would rather have

cash? He wondered who the Commission was trying to protect with that rule. **Ms. Winslow** said her understanding of it was that it was merely an accounting issue and the staff needs to know in advance what's going to be paid out as prizes for a particular game. It would just create an additional regulatory burden. She said she didn't think that it would be something that would be a real problem. It would be something that they could consider as an option, but it simply was an accounting issue. Knowing in advance what is going to be paid out as prizes for a particular game when can you flip-flop it around then it just creates more work. **Commissioner Forrest** asked what if the winner of the charity said they wanted to convert the merchandise to cash separately. They've got the teddy bear and he could sell it to his neighbors who didn't win the teddy bear. He said he could not see much difference.

Commissioner Forrest said he would like Ms. Winslow to take a look to see if any purpose was being served by the rule which said a winner of merchandise could not turn around and sell it back to the organization for cash.

PETITION BY WASHINGTON GAMING CONSULTANTS REGARDING HOLDING PULL TAB GAMES

Amendatory Section WAC 230-30-050 – Punchboard and pull tab operation.

Ms. Tellefson said Item 5 is a petition by the Washington Gaming Consultants and has to do with pull tab games that are placed on hold that would allow the operator to remove them from the display so that they could put up another game in its place. One of the WSGC staff members has worked with petitioners to try to clarify some of the language and include language that would be important to us in the event that the Commission decided to finally pass this rule. It's up for further discussion and the petitioner is present.

Julie Porter, Washington Gaming Consultants, thanked Julie Mass of the Gambling Commission, who had been working with her to write a rule that was satisfactory both to the staff and commissioners and to the pull tab licensee. She said she supports the rewrite of the rule and she was available for questions.

Commissioner Forrest asked what is being fixed with this petition. **Ms. Porter** said there had been a long-term practice by the licensee to hold the games for their customers. Within the last nine months, this practice has come to the staff's attention. It's not legal and the people who have been doing it were not aware it was not legal. There were some agents who were unaware it was illegal. They have had house rules posted at many licensees that they hold games. It just got lost in the shuffle and so the purpose of the rewrite is to correct that so everyone is in compliance with the rules.

Chairman Ludwig asked if the problem was a matter of space in the licensee's establishment. **Ms. Porter** said that was correct. **Chairman Ludwig** asked if they were creating a bigger headache by taking this one out, setting it back below the counter while it's on hold, what will they do when that former player comes back and says he or she is ready to make my next pull out of bowl. Where will they put it when the player comes back to finish playing it out. **Ms. Porter** said there was usually a little space there that they can set the container that it's in and deal out of that container right there. **Chairman Ludwig** asked if they would have to take another one down. **Ms. Porter** said no. **Chairman Ludwig** asked if they don't need to do that, why do they have to take it down to put another one in play.

Ms. Porter said it was because of the space limitations. She said a lot of operations may only have room for six or twelve different fish tanks to display their games. So there's a game that's out of play and may be out of play for two or three days – you've just cut down what they're able to offer other customers. Your new customers come in and may see a game board that has half of the games that are being held so they don't have much to play. Typically, also, for the small operator on the higher-end games where the prizes are say from \$250 to \$500, they're only willing to expose themselves three or four games in that prize limit and those typically are the games that may go on hold and so now they're not willing to put up more to expose themselves more and the games that people like to play the most are being held.

Chairman Ludwig said he doesn't have a real problem with the rule, but it seemed to him that this is a problem the operator has created and if he doesn't want to handle that problem, why are they going through the process of a rule. **Ms. Porter** said it was a customer-driven thing. The customers want them to give them an opportunity to win back their money and it's customer services. In a lot of circumstances it is more of a problem for the operator. They must maintain the records to track the game as it's being played and take off the board and down.

They still have to track the game on a daily basis. And she agreed with him in that it can create space problems, but if the customers wants it, it's their belief that they should give the customer what they want.

Chairman Ludwig said they were giving that customer what they want, but now they want a provision to appeal to additional customers by having a rule that they can take one out and replace one. **Ms. Porter** said yes, it was a benefit to the business, but also to the new customer so they can come in and see a full display that they can choose from. **Chairman Ludwig** said he understood, but it just seemed that there was always some balancing act involved with whatever the product is that they were trying to sell to their customer. **Ms. Porter** said that it was just that it has been going on ever since she has been in the industry, which is 15 years, and there has not been a problem with it. There have been no customer complaints regarding the practice and the operators either choose to do it or choose not to do it. It's not required; if the customers are asking for the service, they provide it.

Commissioner McLaughlin asked if the Commission is merely legalizing something that is already happening, not changing anything. **Ms. Porter** said that was correct. **Chairman Ludwig** asked if it were now prohibited. **Ms. Porter** said it had been brought to their attention that it is a prohibited practice. **Commissioner Heavey** asked if he were correct that those games were not placed back in play. **Ms. Porter** said that was correct.

Commissioner Heavey said that what she was saying, in effect, was they take this game out of play and put another game in play, the only person that can play this game is the person they are holding it for and when they spend as much money as that as they want to spend, then that's the end of the game. So, what they are doing is not creating additional games; they are just having authorization to put another game in play while they have a private play on one game. It's like holding the slot machine in Nevada. **Ms. Porter** said that was right. **Commissioner Forrest** asked if the staff had concerns about this. **Ms. Winslow** said they had concerns, but they have been addressed with the revised rule proposal that's in the packet. **Commissioner Forrest** said it would be a joint recommendation. **Ms. Winslow** said in a sense that was correct.

Commissioner Herbold had a follow-up question regarding new item (f): "Operators may not have more than 25 series permanently held for players at any one time." Her question was if it was a realistic expectation that many operators could hold 25 games and put new ones up. **Ms. Porter** said no, and she only knew of only one operator who could hold that many games. **Chairman Ludwig** asked about the 14-day period in which a game could be held and in this instance, they were asking the Commission to make a rule that they could rely on. And he wanted to know if it were being done now, what was the longest anybody has been willing to hold a game. **Ms. Porter** said operators varied, but typically they would hold games for three days on the average. Some hold them for as long as seven days without play. Some of them are more informal than that and this rule would bring them more in line. **Chairman Ludwig** said he did not have a big problem with it, but it seemed to him that they were asking the Commission to make their business rules for them. As long as it doesn't create a regulatory problem, he supposed they could say okay, but it really seemed to him that they were asking the Commission to do by rule how they want to run their business. **Ms. Porter** said they wanted to be in compliance with Commission regulations. **Chairman Ludwig** said that was nice to hear, but it seemed to be a market-driven and individual business decision and he did not know why they needed a rule, but if it's prohibited he guessed they needed it.

Commissioner McLaughlin asked where it was prohibited in the rules. **Ms. Winslow** said it does say in one of the WACs that once a game has been removed, it cannot be put back into play. And the new rule would allow them to remove it and hold it and then close it out.

Chairman Ludwig called for any further questions or comments from commissioners. There were none and he opened the meeting for public hearing.

Ron Sellar of the 19th Hole in Bremerton, said they currently hold games for players. They do not consider them being removed from play. They have just been restricted to one player at that time. They're not removed from sight; they're still on the wall with the rest of the games and the customer must sign a slip that he/she will be back to play it in three days. If, in fact, he puts \$100 in it and there's nothing won off of it, he/she comes back the next day and wins that \$100 putting the game back at zero, they open it back up to play to everybody. **Chairman Ludwig** asked if he needed this rule. **Mr. Sellar** said that as he understood this rule, this is to be able to take the game from view – one that has been restricted to one player – and he did not see a problem with that because

none of the new players have an opportunity to play it anyway. If space is restricted, say there's only room for 10 games, it is very important that 10 games are kept up there that are open to everyone.

Commissioner Heavey said he understands, but he wonders if, under Commission rules, the operator can restrict the play on any punchboard to any one individual. **Chairman Ludwig** said that it seemed to him that if someone started playing a punchboard or pull tab game, nobody else can play it until he's through playing it. And all the operator is doing is giving the player a chance to get more money, cash a check or whatever. **Mr. Sellar** said that it may be a case of running out of time. The player may have the money but has to leave to go to work and, rather than lose the money, they then have an opportunity to get their money back or more. **Chairman Ludwig** said that made sense to him – that it was still in play and that the operator is just kind of holding it waiting for the player to finish playing. He understands that as soon as the player is finished, the operator has a decision to allow others to keep playing or to pull it like he would any board at any time. **Mr. Sellar** said he appreciates that he saw and understood that. **Chairman Ludwig** said that he was now wondering if it is pulled from view and put under the counter and it's put back up for that one player, is it back in public play when he's through playing it? **Ms. Winslow** asked to make a point of clarification. She asked Mr. Sellar if he actually pulled the games from play or did he just reserve his game. **Mr. Sellar** said he did not remove it from play. **Ms. Winslow** said that meant they were talking about apples and oranges. There are games that are in play, but what he's speaking to is a reserved game that is still in play, it's not taken out of play – it's just being reserved for an individual to come back. It would not be under this step and be considered a held game. A held game would be something taken out of play. **Chairman Ludwig** asked if that is true even if it were reserved for him only. **Ms. Winslow** said that was correct. They just put a reserved sign on the game while it's out in play and then that individual can come back. Generally what happens, as she understands it, is a reserved game, an individual might come back the next day to continue with their play – they've run out of money and they just want to come back – where the held games are just handled a little bit differently. It gives them more time to come back and recoup their money.

Chairman Ludwig said he still didn't see the difference. If a game is being reserved for him and the bar is holding it for him, other than the time factor, what was the difference? **Ms. Winslow** said it comes out of play. The held game actually leaves the counter space and goes back underneath the counter where the reserved game stays on the counter; everybody is able to see that the game is in play and that makes the staff more comfortable with the fact that it could back into play. When they pull a game out of play status and it's not visible to the public, the staff has a problem with that game going back into play because there's an appearance problem and then there's also the potential for errors to be made when it's going in and out of containers.

Chairman Ludwig thanked Mr. Sellar and asked if there were any other public comments; no one came forward. He asked Ms. Porter if she had the same understanding and comprehension as Ms. Winslow. **Ms. Porter** said yes, she did but she would make a further distinction between a reserve and a held game in that a reserve game is usually smaller amounts of money. Typically, when someone gets into a game \$20, \$30, \$40, it will go on reserve to protect that player. Typically, it is while they are sitting there; however, if it remains on the display, and it's not pulled down, it can stay a reserved game for as long as the house rules say. A held game typically involves a lot more money. The house rules typically state that they need \$100 in the game or \$250 in a \$500 top-tier game to hold a game, because the game is required then to go out of play once it's been received. **Commissioner Ludwig** said he was glad he was not the customer playing.

Director Bishop said that they have this rule which is talking about a permanently-held game and in sub-section 7 (b) of this same rule they are talking about a reserve game and a reserve game, the amount of time that it can be reserved is purely by house rule whereas a held game they have in rule form seven or fourteen days. That confused him and he wanted to know why would they say that this is one way and the other one was not.

Rep. Fisher asked if the customers who play this know games can be reserved. **Ms. Porter** said yes, they were asking for it. **Rep. Fisher** said she wanted to know if she suddenly would drop into some place and start playing whatever it is they are playing, does it say someplace that she can reserve this game? Are the rules on the board? **Ms. Porter** said yes, it was about this big and it usually says \$20 or \$40 (depending on what the house has) will reserve any game and then \$100 will hold any game with the top tier winner up to, say, \$400, and \$250 will hold the game with the top-tier winner of \$500. **Ms. Porter** said that this was a house rule that is posted right there by the games – what it takes to reserve a game and what it takes to hold a game. What they are doing with

this rule is now they are going to clarify time-lengths. Most houses will also post how long they will hold the game.

Chairman Ludwig asked if the posting also included a definition of “hold” and “reserve.” **Ms. Porter** said no, but that would be something that would be explained to the customer. She said that most customers who were doing this were real clear on what they are – they’re pull tab players and it’s been something that’s evolved. **Chairman Ludwig** acknowledged that it was new to him, but the concept having two separate categories was a little strange. **Ms. Porter** said that it needed to be done just to answer the problem of removing it from the display once it’s removed from view and going to the counter in the immediate area, they needed to have a different definition of it although they have had a different definition for it for years. **Chairman Ludwig** said they didn’t have to beat it to death today because it would be on for further discussion, but sometime he said it would like to talk about the person who has twelve boards, three of them on reserve and a couple of them on hold. He thought that was a problem for the operator, too.

Ms. Winslow asked to address the Director’s concern regarding the time frame on the held games versus not having a time frame on the reserved games. She said the staff did not look at reserved games. That is certainly something that they could; however, they still feel that those games are in play and the practice has been they won’t be reserved for very long. She said if he wanted them to look at that, they certainly could do that. **Director Bishop** said it struck him as strange and they could talk about it later.

Commissioner Heavey said it’s almost equivalent to buying out the board. **Ms. Porter** said the difference is that they don’t have to buy out the game. **Commissioner Heavey** said the operator makes a decision whether they’ve got enough money in this game – they’ve received enough money in this game where they’re willing to make a choice of either letting this guy spend as much money as he wants to finish out the board or they take it out of play one way or the other – they’ve got enough money out of it where they can make that decision. **Ms. Porter** said it was a risk for both parties. **Commissioner Heavey** said that what he meant by that is that if this person never comes back, the operator then takes the game out of play, which wouldn’t be done unless he has received enough money on that game so they may be pulling in early, but it’s still profitable to pull it. **Ms. Porter** said her company runs statistics on all of their clients and they have found that the operator makes less money on a game that’s been held. She said it was a customer service. **Commissioner Heavey** said he knew that, but it was still decision – he said an operator would not hold a game if he knows an individual does not come back he’s going to lose his shirt on it. **Ms. Porter** pointed out that there are many times when the game might have two \$500 winners, one has been won by another customer. This person may be going after that second \$500 have \$250 in it, but the game’s already down \$500, so whether or not this customer ever comes back, they’ve lost money – it’s customer service. It can go either way. **Commissioner Heavey** said his point was that the operator makes the decision “I can pull this game if this person never comes back.” They’ll give a service to a point. **Ms. Porter** said if the rules are posted, they will have to do it. Once the customer has that amount of money, whether they’re going to come out ahead or not, there are houses that will hold \$500 games for \$100, so if the customer comes back and the next ticket wins, they’ve lost.

Commissioner Heavey said he understood that, but wanted to know what the \$100 was – was that in addition to the price of each punch or pull. **Ms. Porter** said no that would be he has \$100 net in the game and then the customer could come back on the 50 cent ticket and win the \$500 and now he’s at net minus \$400.

Sen. Schow said that, on a game that’s held, if he comes in and puts a couple hundred dollars into a game and then have to leave or whatever, and he says, look, I want to come back tomorrow, would they hold this game for me. He wanted to know what happens to the game if he never comes back. He wanted to know if it were automatically pulled then. **Ms. Porter** said it would be automatically pulled after the seven days according to this rule. **Senator Schow** said it can’t go back on the backboard. **Ms. Porter** said no, absolutely not.

RECESS 11:07 a.m.

11:22 a.m. meeting resumed

Discussion: SATELLITE BINGO

Commissioner Forrest recalled that the Commission received a letter dated March 11, 1998, from a number of members of the Legislature with regard to changing the rules for charitable activities and regretting that they hadn't passed a bill and asking the Commission, in effect, to take care of what these legislators apparently were unable to do. He said he did not have a strong opinion yet as to whether they should or should not, but he said he would like to see it on the agenda and some response. The answer should be either consciously say "No, that's your job," or "We think it's a bad policy," or, if they decide it's a good policy and it's the Commission's job, they ought to do something about it, but he did not think they should ignore it. **Chairman Ludwig** said he agreed that it should be addressed and thought maybe they could ask staff to formally put this on next month's agenda.

Ms. Tellefson introduced Amy Patjens, who is the public affairs manager and as Ms. Tellefson steps aside, she will be handling the rules in the next few months and who knows how long. She is a lawyer and has been in charge of Compliance and Hearing Section, the rule making section and the communication section. She's been involved in tribal negotiations and has worked with the media and assisted on legislative affairs as well, so please treat her nicely.

BINGO RULES

Amendatory Section WAC 230-20-102 – Bingo prizes – Record of winners

Amendatory Section WAC 230-20-125 – Discount and promotional gifts – Authorized -- Limits

Amendatory Section WAC 230-20-249 – Three number speed bingo – Operational procedures -- Restrictions

Ms. Patjens said the rule regarding prize accruals would make it clear that licensees have to identify what bingo games are going to be used and what games would accrue to this fund up front. They also would have to maintain a record that has a variety of things in it including explaining the amount of money that would be added to the fund each time a game had been played as well as the maximum balance for the game.

Ms. Patjens said that Item 6 (b) deals with promotional gifts for bingo games and under current rules on eight occasions per year when a player goes into a bingo hall, they can get a promotional gift of nominal value. An example of this might be something like a package of bingo daubers, blotters or maybe a coffee mug – something like that. The other thing that they are able to do is give frequent player incentives similar to frequent flyer miles that if they play a certain game then they'll have these points that they can later get some type of gift with. The proposal would make it so that on those occasions when they would go in and have the opportunity to get, say, a six-pack of bingo daubers, instead they would be able to exchange that for frequent player points and then some type of a larger prize at the end.

Ms. Patjens said that Rule 6 (c) does is it's a record-keeping rule. It's related to three number speed bingo, which is played differently than how the regular bingo game is played. They get a small card that only has three numbers on it and at the time the card is purchased, they also get a ticket. Currently a person pays for that individual card, which is a cumbersome process for the employees who are selling those cards to the players, because each one has to be date stamped at the time of purchase. What this rule would do is give the bingo hall the option of charging a per-session fee or they could still go ahead and charge an individual fee for the card or for the ticket.

Ms. Patjens said that staff recommends that the rules be filed for further discussion. She said there was one change to them. She said she did not have a chance to talk with Director Winslow about this, but if she could look at on the last paragraph in 6 (a) that's under the first rule, there seems to be a redundancy in subsection "L" and they would propose that the rules be filed, but that subsection "L" would not be included. It really restates what is directly above it.

Commissioner McLaughlin asked if all the Commission's bingo cards that they have now that are throw-aways that have to be daubed or something like that. She said she played a bingo game on a cruise in international waters where they could punch it out, not pull it out completely – it was still there – but they punched it out and sure was clean game.

Ms. Winslow said there are no regulations regarding the use of daubers, but they do control bingo paper that comes into the state. She said she did not believe that they have established any standards over the paper; it

was something that could be introduced into the marketplace. She said that she didn't think that introducing new types of cards was something that was easily done. Transitioning from hard cards to paper was probably one of the more difficult things that they experienced in the past, but more change is a possibility for the future.

Director Bishop said that would be a player-driven issue. He said he would certainly understand if he were only playing one game and he has played in club environments where they've have a happy hour game or something like then everybody gets one card. It's convenient; they don't have to have a dauber, but in a bingo game, if someone were playing 20-30 cards, that would be a lot of pushing, but as far as he knew there was nothing that prohibits those types of cards in Washington State. He said he was sure there would be some bingo managers who would be glad to give her some information on that.

Chairman Ludwig suggested they move on and asked if there were a desire on the part of the Commission to file these proposed rule changes.

Commissioner Herbold moved and **Commissioner McLaughlin** seconded the motion to that the Commission file Rule 6 (a) through 6 (c) for further discussion. He called for further comment.

Ms. Winslow said that Ms. Patjens had suggested during her presentation that they eliminate one of the items in 6 (a) subsection "L" and she didn't know whether they would have to make a statement to that effect. She said it was a housekeeping change – it just merely eliminates subsection "L" because it's repeated directly above it.

Chairman Ludwig said that could be corrected after the filing.

Vote taken; motion carried with five aye votes.

COMMENTS FROM PUBLIC OR PUBLIC OFFICIALS OR BOTH/GENERAL DISCUSSION

LICENSE FEE INCREASES

Vito Chiechi, Chiechi and Associates, introduced his daughter, Delores Chiechi Whitmore. He said they are before the Commission today to plead for a rebate in their fees that go to the Commission. He said that, with all due respect to the Commission and staff, who have done a marvelous job, during the last session of the Legislature, they had decided that it would take the operator fees away from the Commission. What he was asking for was that if it goes any place, it should go back to the operators, not to some other entity that didn't pay into it. He wants some consideration for getting some of the fees back or a reduction in the amount of fees, at least over the next few years. He said former Representative Heavey and also Representative Ludwig knew that if there are a few dollars laying down around there, there's always someone ready to snatch it up. He said that, with all due respect to Senator Schow and Senator Prentice and Representative Ruth Fisher, he was sure that they would make sure that it got back to the operators, but he wasn't so sure about some of those other scoundrels down.

Chairman Ludwig reminded the audience that Sen. Schow came to the rescue and kept Senator's West's hands off of that money. **Mr. Chiechi** said he knew that and that many of the members of the Commission actually helped also. He said it was a tough battle and he didn't want to go through it again with getting many phone calls going into Representative Fisher and senators Prentice and Schow. He said everyone did a good job. In fact, he got a call from the Governor's Office telling him they understood what he was saying. He requests that the Commission review the possibility of the money going back to the licensees. He said he knew there was some question as to whether there was the ability to rebate or not. He said his theory was that if the IRS can give money back and the Department Revenue could refund overpaid B & O tax, then he thought the attorneys representing the Commission might be able to figure out a method of how to do this. He suggested they sit down with all of the organizations that pay fees and devise a method of not having a large surplus, but having enough for the Commission to operate. They know they need that and they know the rule on Initiative 601 and maybe the Attorney General's Office could tell them how the law might be changed in order for them to be able to get some of their monies back. He said he had been looking and so far he has been unable to find that particular section.

Director Bishop thanked Mr. Chiechi and all the licensed operators who participated in this lobbying activity. He said they were very effective and it made the Commission staff's job easier. He said he wrote a letter back to Ron Krause and Steve Downen and they have committed over the long run to try to keep their fees as reasonable as possible. He said they also have a duty to make sure that they do not compromise regulation and control. So they walk a fine line. In 1995, they actually got to the wrong side of the line by trying to hold it so close in balance and during that time recognized a slight downswing in gambling activity and consequently their fees followed it. They had to tighten their belt at that point, had to go back to the Legislature and ask them to return a previous loan, which they so graciously did, in a short timeframe to pull them out. He said part of the so-called surplus that they have now is the result of those two actions.

Director Bishop said they were now in this new program with the card rooms. A lot of the fees they have received some fees that they have not spent yet. But they are in the process. The hiring process is very slow. He said next month they would give a briefing on the budget for the next biennium. At that point in time, they will have to look very closely at their revenue projects. He said he was a little bit conservative in this area and he tends to err on the high side as far as holding money rather than put the agency at risk by getting behind the power curve because of Initiative 601. He said he asked Mr. McCoy to look at the situation regarding the rebate. He has spoken to him informally that that would probably a gift and it's not allowable. He will continue to look at other statutes.

Sen. Prentice said she thought that what Mr. Chiechi might be really saying or at least it would be more practical in her view, that rather than thinking in terms of rebate is how do they protect the money that the operators have legitimately paid and make sure it doesn't go elsewhere. They may not always have the right person able to say the right thing in the Legislature, but the intent, she believed, was to protect that and make sure it went exactly where it was supposed to go. She asked Mr. Chiechi if she were correct. **Mr. Chiechi** said yes, that was correct.

Sen. Prentice said she thought it would probably be a stretch. First of all, the activities of this Commission were going to be extensive and they are probably going to be scrambling to keep up, if anything. Perhaps if there was a big surplus and adjustment in the future rate, but if they run into legal problems in thinking about returning it, perhaps, that's certainly well into the future. She said she thought her fellow "scoundrels" here could also look at how they could go about making sure that the fees go exactly where the operators intend them to go. She said

she did not hear a lot of squawking about the fees; they just want to keep it where it's supposed to go. **Mr. Chiechi** said yes, they would like to protect it if at all possible.

Chairman Ludwig said there is a related issue that he was aware of when they last year set a license fee increase for January and **Director Bishop** deferred it until July 1, 1998. **Director Bishop** said they had deferred it until the last day in this fiscal year and the last effective day that they could make it and stay under the I-601 criteria.

Chairman Ludwig asked if they had a related issue for comment on that today. **Director Bishop** said to repeal that would cause lots of trouble. It could be repealed, but the problem they would have would be those licensees that actually paid before it was repealed. The advice was that it would probably take them a minimum of 60 days and probably 90 days to effectively repeal that so they would have a window where people would in fact pay fees and others wouldn't. Also as a part of this last biennium's budget put forward a fee increase that is scheduled for the first of January 1999. He said he made a commitment to the licensees that they will look at that very closely and either ask that the Commission not implement that increase at all if they are in fact doing as well as they are now or at least at a very minimum to delay it as long as they can as they did this time.

Chairman Ludwig asked if there is any plan to further delay the increase to take effect on June 30 or was it even possible. **Director Bishop** said he did not think it was possible, in effect, to do that. **Chairman Ludwig** told **Mr. Chiechi** that the commissioners and ex officio members received a copy of that letter and then responded to and when he got it, it made an impact. He said he was very sympathetic to the contents of that letter and he thought that was something they should not forget. Maybe they can't correct or do anything positive right now, but they should keep that in mind to avoid a future problem and an unnecessary expense. **Mr. Chiechi** assured the Commission that he will keep them aware of it.

Sen. Schow commended the industry for stepping up to the plate and making sure there's money there, to make sure that their activities are regulated, that the integrity of the gambling industry has been upheld and at the same time. He thought that the director and his staff and the commissioners have done a good job of trying to be as frugal with their money as possible. Certainly, there may be a day that they need to look at reducing fees or rebating fees, or whatever, but he thinks the most important thing is that they make sure that the money that the industry pays in goes for what it was intended for and not for some other reason. He said he could assure them – and he was sure he could speak for Senator Prentice and Representative Fisher – that they will continue to vigilantly look at that and see that it doesn't happen that the other "scoundrels" down there don't get their way. He said he did have questions about whether or not – they don't want to let that fund to get so low that regulations can't be enforced and the integrity of gambling in this state go awry, so the director is right – there's a very thin line that they have to walk – and he thinks **Chiechi's** and other operator's involvement in these meetings is evident that they are going to be here and keep an eye on things and the legislators are going to be there so hopefully as they go down the road they will find that maybe they don't need as much money as they're asking for and they can find a way to find some relief. **Mr. Chiechi** thanked Senator Schow and he said they have always felt that the Commission does a fine job and they certainly do not want them to get so low in their dollars that they can't do that fine job. **Director Bishop** said he wanted to warn him that when the auditor comes this year, he would refer the auditor to him.

Rep. Fisher said she's going to go back to her caucus and tell them that Vito's back.

Director Bishop said that he received a letter from three licensees in the Tacoma-Pierce County area with a request that it be read into the record. I think it relates to the same issue. He asked **Ms. Patjens** to read that into the record if they desired. **Chairman Ludwig** wondered if it would be okay to admit it for the record and then make sure that they all have a copy of it. **Director Bishop** said referencing would be the most efficient, however there might be other concerns. **Commissioner Forrest** wanted the letter to be read into the record because if the writers were present and speaking about it, everyone present would hear it.

Ms. Patjens said the letter is from three licensees: the Boys and Girls Clubs of Pierce County, Gateways for Youth and Families, and Big Brothers and Sisters of Pierce County. It is addressed to **Mr. Bishop**:

We are an informal group of licensed, charitable bingo halls. We understand that they will discuss an issue relating to license fees at your June 1998 meeting. It is our desire that this letter be read into the minutes of the meeting.

In the past several years, charitable gambling in Washington State has been rocked by competition, primarily from tribal casinos, but also from the state in the form of the Lottery: scratch tickets, Quinto, and the daily games. While all of this has occurred, the charitable nonprofit halls have attempted to work with the Gambling Commission to help even the playing field. We have asked for an increase in the number of playing days, for the ability to combine operations to save money, and to link our games in order to compete with the tribal games. All of these requests were received with negative responses.

All that has happened to affect our games is negative. Our license fees go up every year and our pleas for support go unheard. The Gambling Commission seems to be unresponsive. It appears that support for charitable games is a low priority because the Commission has adequate resources for its operation. The media tries to give the impression that you help and support us. We wonder what that means. Since 1973 the RCW and WACs have been read like they're cast in stone. Amendments and new rules do not go to the core of the problems.

Our Wish.

1. Restructure license fees so they are affordable. Have a flat rate for bingo at \$100 for Classes A through D; Classes E through G, \$1,000; and Classes H through M, \$1500.
2. View all issues with a mind for fairness. Emerald Downs got a break; why not us?
3. Really listen to our problems. We have become very frustrated short of pooling whatever resources we can to hire a lobbyist to talk to the Legislature. We seem to have no recourse with the Commission.

Sincerely,

The Boys and Girls Clubs of Pierce County
Gateways for Youth and Families
Big Brothers and Sisters of Pierce County

Chairman Ludwig said the Commission has already indicated that they were going to put that satellite bingo suggested rule on July's agenda. Maybe they could respond to that letter by having the other two items also up for discussion. **Director Bishop** said that they would gladly do that at the Commission's direction. **Chairman Ludwig** said he did not know how those suggested fees compare with what they're now charged and that's the only thing that he personally would need to know before they talked about those.

PROBLEM GAMBLING COUNCIL

Gary Hanson, executive director of the Washington State Council on Problem Gambling, handed out their 1997 Annual Report. He said he had been unable to prepare them in time for the April meeting and because there was no May meeting they are a little dated. He called their attention to an error which they could find if they looked through the report until they found one of the pages with graphs referring to Help Line calls over the years. He said the number that was dropped was actually 2,143. He said that the errors probably had something to do with

the fact that they were a non profit organization trying to get by with less than they need. He thanked Trade Products, Inc., for once again reimbursing them for all of the production costs on their annual reports every year. **Mr. Hanson** said that the contract comes up for renewal in a month or two. They are scheduled to address the Commission as to their activities in more detail at the August meeting. He asked if there were questions.

Commissioner Herbold asked if, when they do their studies about compulsive or problem addictive gambling, they break those down into the categories of gambling. For example, what percentage of problem gamblers play card games and what percentage are into bingo. She wondered if there were a breakdown like that so as they are discussing these – they're always hearing about evening the playing field – as they discuss ways to help the charitable groups and ways to help the tribes, is there some data that shows them which are the most problem areas in gambling. **Mr. Hanson** said there is some. The prevalence survey that was contracted out and published in 1993 had a breakdown on games of choice for problem gamblers. That data is outdated; however, it is the most statistically valid. The Lottery has put out an RFP for a second set of prevalence surveys – adult and adolescent -- that should be conducted this November and published early next year. He said that will follow up the 1993 study so that should be the same range. In addition, the annual report shows, in the help line activity section, they have a section on games of choice reported by callers and it breaks it down as to games of choice for these callers. He pointed out that that was not hard data. First of all, someone has to have called the Help Line; second of all they have to have agreed to answer the questions. They don't force them to; and thirdly they have to have told them the truth. The other thing is that some of those games are reported two or three times because someone who has a gambling problem might be playing at a casino, might have lottery tickets in their pocket, and might also be playing cards somewhere else, so all of that might be in that data, but it's the best they have.

Ric Newgard, representing the Washington Charitable and Civic Gaming Association, said he wanted the record to show that WCCGA was not part of the group who wrote the letter just previously read to the commissioners. He said that he spent many years working with staff in committee form and feels that the relationship is very sound.

Pat Conner, owner of DJ Murphy's in Olympia, a tavern restaurant, said he agreed with all that Vito Chiechi had said. He added that, over the last six years he's been in business, the most important thing that the Gambling Commission has said to him was that everyone carries their own weight. During the last six years, the fees have only gone up. The small individual, the "mom and pop," who understood originally that gambling and pull tabs were designed to help them, have seen nothing but fees escalate, the cost of operation go up, everything. The number one thing that's happened is that the profit is going down. He said they were not asking for any guarantees. No one is saying it's his fault or it's his fault, or the Indians got the better deal, or the card rooms got the better deal, he said they all should realize the myth. He certainly respects that the charitable group, the Recreational Gaming Association, Indians, whoever they are, all are trying to do their very best as he and his group members are. He said he represents the small guy, and that his license level is \$700,000, which may be a middle-sized license. He wasn't sure, but he thought he had a Class "G" license.

Mr. Conner said it's the small guy who's getting squeezed so hard that some are saying it isn't profitable anymore. The small businessman opening up his door each day knows that it's a crap shoot. He said all they were asking for is that when the Commission looks at the fees and when they look at what's happening to their industry, that the Commission include them in establishing those fees. He said they were the guys paying the bills. He said there were more little guys out there than there are big guys. He thanked the Commission for listening.

Rob Saucier, Mars Hotel in Spokane, said that it was important that the industry clearly understand that the Commission is to be supported by the industry. Secondly, the industry in all of the discussions that they have had both before this Commission, among themselves, in front of the Legislature, believes that the Commission should be properly funded to be able to regulate this industry. They have testified before the Legislature several times. He said this was a self-funded industry, a self-funded Commission. **Mr. Saucier** said he wanted to enlarge upon one of the things Senator Schow had commented on regarding making sure that the money goes to the places it was intended to. He said that over the last couple of years, he had done some research of the history involving the Gambling Commission, the history of the 1973 Act, how that came about even before '73. He said he talked to a number of legislators who were around in 1973 and were involved with the Act. He said that at the time, the

idea was for the Gambling Commission to be self-funded. The idea was that no agency or any governmental concern was to profit from the gaming industry.

Mr. Saucier thought one of the things that had been lost sight of was that, in addition to the license fees that go into the Commission's budget, all of the licensees pay taxes. If they look at the statutes, the taxes were originally intended for enforcement of the Gambling Act. The original intent back in the '73 through '75 timeframe was that they believed that local law enforcement was going to have a significant impact in terms of the enforcement of the gambling regulations. And in reality what's happened, is that as the Gambling Commission in 1973 was just getting on it's feet, it probably had to rely on local law enforcement a lot more to help enforce the gambling regulations. But as the Commission has grown to become more experienced, the Gambling Commission is without question the predominant regulator in this. Local law enforcement has very little in terms of regulating the industry. As a result of that, the taxes are no longer being used primarily for the purpose of enforcement of the Act, but instead are going into the general fund. Mr. Saucier said that this is becoming very apparent to those in the Spokane industry.

Mr. Saucier said the industry is currently taxed at 20 percent of their gross – that's over and above the fees they pay the Commission. They have requested the City of Spokane to lower the tax. The proposal is going to be before the City Council in ten days to lower that tax from 20 to 15 and so far the only response they've heard from the political leaders in Spokane is that they cannot lower their gambling tax because they need the money for roads, for buildings, they have other capital improvements that they need to fix problems in the city. There's never been one comment by any official that any of that money is used for enforcement of the Gambling Act. Mr. Saucier said he thought it was critical that the Commissioners understand that from the Spokane industry's standpoint – and he can vouch for his personal business – they are paying over \$1,000 per day in their operation in the City of Spokane in gambling taxes.

Mr. Saucier said that they are currently scheduled to be audited by the Gambling Commission and are being charged an additional \$20,000 in order for the Gambling Commission to conduct that audit. He said he thinks there is a real imbalance here in terms of how much money needs to come from the operators to regulate this industry. It's excessive and he said he is not the only one that is in that boat – the other operators that they've heard from that are paying 5 percent taxes on pull tabs or 20 percent on gross revenue – it's an enormous amount of money that is not going for what it was originally intended to go for and that is enforcement of this.

Mr. Saucier said it was critical that the Commission take a look at the overall cost to the operators of what they are paying supposedly to regulate this industry and what is actually needed to regulate. He said that there can be surpluses and there can be that cushion so that the Commission doesn't get into trouble and so that the industry is always adequately regulated, but it's far too excessive if they would really take a look at what it is that they're all paying.

Chairman Ludwig thanked Mr. Saucier for his comments and he said he hoped that he and other licensees continue to carry that tax bite message to their local governmental authorities.

VOTE FOR CHAIR AND VICE CHAIR

Commissioner Heavey moved that Liz McLaughlin be nominated to be Chair of the Gambling Commission for the next year. **Chairman Ludwig** seconded the motion and said that she participates; she's got the time and will do a good job as chair. He called for further nominations. There were none and he closed the nominations. *Vote taken; motion carried with five aye votes.*

Commissioner McLaughlin moved to nominate Marshall Forrest for Vice Chair. **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with five aye votes.*

Chairman Ludwig passed the gavel and microphone to Madam Chair McLaughlin.

Commissioner Ludwig said that the former director received a raise right before he left the position. At the time

Mr. Miller was replaced they set Director Bishop's salary at the former director's pre-raise level and he remembers when he made that motion, he suggested they review it in six months. He said it was much longer than six months and he said that the Commission and staff had been very busy during the nine months that they had been involved under Mr. Bishop's direction with a lot of issues that came to light at the same time. Implementing house banked card rooms, renegotiating, and mediation with Indian tribes, two major staff changes now – just a lot of things to have on one's plate. He said Director Bishop has handled those things well.

Commissioner Ludwig moved to increase Director Bishop's salary by almost 5 percent, which would be \$4,200 a year (or \$350 per month) effective July 1, 1998. **Commissioner Herbold** seconded the motion. *Vote taken; motion carried with five aye votes.*

Madam Chair McLaughlin suggested that if lapel microphones were not too expensive that they be provided for all the Commission members because they were very useful and would help the audience hear the Commissioners better.

Sen. Schow, on behalf of the Senate Commerce and Labor Committee, thanked Ms. Tellefson for all of her work she has done, for appearing before them and for the positive relationship they have had. He said the information she brought to them was great and he wished her the best in her new endeavor. He also welcomed Ms. Patjens to the hot seat.

Ms. Tellefson thanked everyone – the Commissioners, ex officio members, staff, licensees, tribes, TVW –and said how much she really enjoyed working for the Commission. She said it had been a tremendous opportunity for her and tremendous stage in her life where she had had an opportunity to grow and develop. The issues are so challenging and she can't think of a better public policy situation to be in than looking at federal and state laws and balancing all of those differences. She said it was a situation where there were no easy answers, so it is even more fun. It has been a terrific experience.

Commissioner Heavey said he had enjoyed working with Ms. Tellefson very much. She has been a tremendous asset to the Commission and he wished her success.

Commissioner Forrest said he hated to see Ms. Tellefson go. She was his introduction to the Gambling Commission out in Semiahmoo; she welcomed him, gave him all the background and told him he would have a great time. He said he has had a great time, but he hates to see her leave. It has been an easier time getting started on the Commission because of her work.

Madam Chair McLaughlin said she thought that they all agreed with that. She has been a tremendous staff person for the Commission and they would miss her very much.

Madam Chair McLaughlin said she has had the pleasure of serving with three chairmen, Bob Tull, Commissioner Ed Heavey, and Commissioner Curt Ludwig. She said she did not think she could even match any of them as chair, but she said she would do her very best and she thanked them for the opportunity. She called for any further comments. No one had any comments.

NOTE: THESE PRINTED MINUTES PLUS THE TAPES CONSTITUTE THE FULL MINUTES.

Susan D. Green
Executive Assistant